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DEC 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Chiang, et al.	:	
Application No. 10/713,029	:	ON PETITION
Filed: November 17, 2003	:	
Attorney Docket No. 4504-095	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 25, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed April 23, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 24, 2007. The Office mailed a Notice of Abandonment on April 4, 2008.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address set forth in the Power of Attorney filed on February 12, 2007.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 1638 for re-mailing of the April 23, 2007 Office action, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Donald A. Groskreutz :
Application No. 10/713,040 : DECISION ON PETITION
Filed: November 17, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. 20607.00 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 29, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3618 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Mailed: 8/19/05

JAL

In re application of
Christian Kunert, et al.
Serial No. 10/713,050
Filing Date: November 17, 2003
For: Use of a Glass for Thermal Shock-Resistant Beverage Containers

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR § 1.181, filed March 11, 2005. Petitioner states that the priority and specification objections made final in the office action mailed November 24, 2004, and reiterated in the Advisory Action of February 28, 2005, are improper as based upon incorrect standards.

The instant petition centers upon the term "colorless" and whether this term, as used in the instant claims, has antecedent basis in the specification. Also of issue is whether this term finds sufficient support in the parent application[1] so as to maintain priority of the instant application as a continuation. Because the issue of priority will stand or fall with the issue of antecedent basis, the latter issue will be taken up first.

The petitioner states that both the instant specification and that of its parent are identical with both providing inherent support for the term "colorless." Although a previous BPAI decision (Appeal No. 2003-0694) determined that the specification of the parent application did not support the terminology "colorless," the petitioner argues that the declaration and exhibit entered into the instant case on October 22, 2004 provide sufficient evidentiary basis for inherent support. This is not convincing for at least the reasons below.

As set forth in the table on page 2 of the declaration, a wet analysis of the inventive glass (having a composition within the ranges set forth in instant claim 1) shows that the glass comprises 0.035 wt% Fe_2O_3. It is notoriously well known in the glass art[2] that even minor amounts of Fe_2O_3 present in a glass will tend to color the glass with a green cast. This fact is supported by the petitioner's own specification.[3] Furthermore, upon examination of the evidence provided by the petitioner (a glass beaker formed of the glass having the composition described in the table on page 2 of the declaration), a green/grey edge coloration can be clearly seen. As such, the

[1] U.S. Patent Application Serial No. 09/532,966, filed March 22, 2000, now abandoned.
[2] *See, e.g.*, U.S. Patent No. 5,030,594 at column 1, lines 16-20, which discloses, ". . . sufficient amounts [of iron oxide] to produce a green coloration are usually present as impurities from the raw material from which the glass is melted."
[3] *See*, page 3, lines 15-24.

petitioner's argument that the specification provides inherent support (and antecedent basis) for the term "colorless," is unconvincing.

We now turn to the issue of priority. As set forth in 37 C.F.R § 1.75(d)(2):

> *The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. (See § 1.58(a)).*

Because of the lack of clear support in the specification for the term "colorless," an amended disclosure to include "colorless" would be required in order to provide support for "colorless" in the claims. Because such an amendment to the specification would render the instant application a continuation-in-part (rather than a continuation, as currently designated), the effective filing date for the instant claims would be November 17, 2003.

The petition is **DENIED**.

Jacqueline M. Stone

Jacqueline M. Stone
Director, Technology Center 1700

James E. Ruland
Millen, White, Zelano & Branigan, P.C.
Arlington Courthouse Plaza 1, Suite 400
2000 Clarendon Boulevard
Arlington, Virginia 22201

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-6-06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction on Patent No.: 6918647

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2853
Art Unit

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,918,647 (10/713,057)
DATED : July 19, 2005
INVENTOR(S) : Kia Silverbrook

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

Page 1, line 23 should read:

–6,553,459 09/575,134 09/575,121

Kia Silverbrook
Managing Director
Silverbrook Research Pty Ltd

MAILING ADDRESS OF SENDER: Mr Kia Silverbrook
Silverbrook Research Pty Ltd
393 Darling Street
Balmain NSW 2041
Australia

PATENT NO. 6,918,647

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

JUN 23 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-15-2010

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No: 10/713071 Patent No: 6880918

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

Eva James
Certificates of Correction Branch
703-756-1583 _____

Thank You For Your Assistance

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

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

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

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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Silverbrook Research PTY LTD
393 Darling Street
Balmain 1041 AU Australia

JUL 8 2005

In re Application of: Silverbrook	:	
Application No.: 10/713,073	:	NOTICE OF WITHDRAWAL
Filed: November 17, 2003	:	FROM ISSUE
Attorney Docket No.: ZG017US	:	UNDER 37 CFR ∋ 1.313
	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR ∋ 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed July 14, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Stephen Meier at (571)-272-2149.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Arthur Grimley, Acting Director
Technology Center 2800

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/5/07

TO SPE OF : ART UNIT 2853

10/713,093

SUBJECT : Request for Certificate of Correction on Patent No.: 7008046

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:

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE

2853

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McDermott, Will & Emery
600 13th Street N.W.
Washington, DC 20005-3096

In re application of	:	**DECISION ON PETITION**
Pascal Pegaz-Paquet et al.	:	**TO MAKE SPECIAL**
Application No. 10/713,099	:	**(ACCELERATED**
Filed: November 17, 2003	:	**EXAMINATION)**
For: COMPUTER-IMPLEMENTED METHOD AND SYSTEM FOR MANAGING ACCOUNTING AND BILLING OF TRANSACTIONS OVER PUBLIC MEDIA SUCH AS THE INTERNET	:	

This is in response to the petition filed on March 11, 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(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

SNM/vdb: 6/28/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/713,099 Patent No.: 7177837 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: The references indicated in the C of C were considered but not included in the Published Patent due to timing of the IDS. OK to incorporate the references in the patent via a Certificate of Correction.

James A. Kramer
SPE

3693
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 23

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
SUITE 600
WASHINGTON, DC 20005-3934

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Cheryl D. Senter, Johannes Wang, :
Le Trong Nguyen, Derek J. Lentz, : DECISION GRANTING PETITIONS
Yoshiyuki Miyayama, Sanjiv Garg, : UNDER § 1.48(c) and § 1.183
Yasuaki Hagiwara, Te-Li Lau, :
Sze-Shun Wang and Quang H. Trang :
Application No. 09/336,589 :
Filed: June 21, 1999 :
Attorney Docket No. SP036.C5 :

This is a combined decision on the three petitions filed June 18, 2002: 1) Request to Add Inventors in a Nonprovisional Patent Application Under 37 C.F.R. § 1.48(c); Petition for Waiver Under 37 C.F.R. § 1.183 of the Requirement under § 1.48(c)(2) of Statements by Persons Being Added as an Inventor; and a Petition under 37 C.F.R. § 1.47, which is properly treated as a Petition under § 1.183 to waive the Requirement under § 1.48(c)(3) for execution of the declaration by all of the actual inventors. Petitioner has submitted a check for $390, which covers the processing fees for consideration of the petitions. These petitions were considered in light of the additional evidence provided by facsimile transmission on October 4, 2002 and October 7, 2002.

The above-identified application was filed on June 21, 1999, with a declaration executed by Cheryl Senter and Johannes Wang as joint inventors. On June 18, 2002, the instant request under § 1.48(c) was filed to amend the inventorship to add joint inventors Le Trong Nguyen, Derek J. Lentz, Yoshiyuki Miyayama, Sanjiv Garg, Yasuaki Hagiwara, Te-Li Lau, Sze-Shun Wang and Quang H. Trang. Accompanying the petition was a statement from added inventor Miyayama stating that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention; and a declaration executed by actual inventors Senter and Miyayama.

37 CFR 1.48(c) requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (4) and (5) above. The petition specifically requests the addition of the above-identified inventors. Petitioner has paid the processing fee. The petition includes a statement signed by a person who states that they are empowered to act on behalf of the assignee and that they consent to the change in inventorship. Accompanying the assignee statement is a certificate under 37 C.F.R. § 3.73(b).

Petitioner requests waiver of the requirement for statements from the other added inventors on the basis that they are all unavailable. Likewise, petitioner requests waiver of the requirement that all of the inventors sign the declaration on the basis that petitioner has been unable to find or reach each of these inventors after a diligent effort. In support thereof, petitioner has provided a statement of facts by attorney Thomas Fiala and documentary evidence of the inventors' unavailability.

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of both requirements is appropriate in this instance. The facts of the record do not present uncertainty as to this correction of inventorship. The assignee has given consent to the requested correction. The petition shows that the statement was presented to the inventors and by their conduct they refused to sign it. Petitioner has shown that each of the nonsigning inventors was actually given the opportunity to reexecute the oath or declaration, or could not be reached, after diligent effort. See MPEP 201.03.

Accordingly, both petitions under § 1.183 are **GRANTED**.

In view thereof, the petition under § 1.48(c) is **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Tulino Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Wyrembek et al. :
Application No. 10/713,160 : DECISION ON PETITION
Filed: November 17, 2003 :
Docket No. 245544US41X DIV :

This is a decision on the petition under 37 CFR 1.181, filed November 23, 2005, to withdraw the holding of abandonment for the above-identified application.

On December 23, 2004, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. On June 23, 2005, applicant filed a notice of appeal and a request for an extension of time for response within the third month, and paid the requisite fees. The filing of the notice of appeal set a two-month extendable period from June 23, 2005 (the date of receipt of the notice of appeal), for applicant to submit an appeal brief. On November 16, 2005, the Office mailed a Notice of Abandonment, indicating that the above-identified application was abandoned in view of applicant's failure to file a timely and proper reply to the final Office action. On November 23, 2005, applicant filed the present petition.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

In the present petition, applicant asserted that the application was not abandoned and requested that the Office withdraw the holding of abandonment.

Upon a review of the record, applicant's assertion is correct. On June 23, 2005, applicant submitted a request for an extension of time for response within the third month and a notice of appeal, and paid the necessary fees. As previously stated, the filing of the notice of appeal set a two-month extendable period from June 23, 2005, to submit an appeal brief. Applicant could extend this period for response up to five months under 37 CFR 1.136(a) (*i.e.*, January 23, 2006). Accordingly, the Notice of Abandonment was issued prematurely.

In view of the above, the petition to withdraw the holding of abandonment is **granted**. The application is restored to pending status in view of the fact that a response was timely filed and received in the USPTO on June 23, 2005.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

This matter is being referred to the Technology Center Art Unit 3644.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Aaron Partridge	: DECISION ON REQUEST FOR
Patent Number	: 7625603	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,172	: 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 **1724** 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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Alexandria, VA 22313-1450
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JAN 23 2008

OFFICE OF PETITIONS

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

In re Application of :
Engelhardt, et al. :
Application No. 10/713,183 : DECISION ON PETITION
Filed: November 14, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Enz-52 (D2) (c) (D1) :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed December 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made elsewhere in the original disclosure filed November 13, 2003.

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 elsewhere in 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). Further to this point, Section 201.11(III)(D) of the Manual of Patent Examining Procedure states, in pertinent part, that:

> If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt.

On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications, a petition will be required to accept a late claim for priority under 37 CFR §

1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed applications filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Kenya A. McLaughlin at (571) 272-3222. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1634 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Jin Li	: DECISION ON REQUEST FOR
Patent Number	: 7572385	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,188	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Ji-Young Moon	: DECISION ON REQUEST FOR
Patent Number	: 7581104	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,197	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1159** 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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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
J. Christian Swindal	:	
Application No. 10/713,212	:	DECISION GRANTING PETITION
Filed: November 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1857.2020000	:	

This is a decision on the petition, filed December 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 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 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS, 41ST FLOOR
NEW YORK, NY 10036-2714

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Shinichi Tamura et al :
Application No. 10/713,222 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. M1071.1865/P1865

This is a decision on the petition, filed June 27, 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 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

FEB 16 2006

In re Application of:
Ravi Prasher
Serial No.: 10/713,236
Filed: November 13, 2003
Attorney Docket No.: **884.C47US1**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file the Office action mailed on September 14, 2005. A Notice of Abandonment was mailed on January 24, 2006.

A review of the written record indicates that a proper response to the Office action was previously filed on January 19, 2006, with a one (1) month extension of time and a certificate of mailing dated January 17, 2006, but not processed in the application file prior to the mailing of the Notice of Abandonment. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

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

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Serengulam V. Govindam :
Serial No.: 10/713,268 : WITHDRAWAL OF ATTORNEY
Filed: November 17, 2003 :
Attorney Docket No.: 018734-1317 :

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

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MINNEAPOLIS, MN 55440-1022

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APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Isamu Kobori et al	:	
Application No. 10/713,275	:	DECISION GRANTING PETITION
Filed: November 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07977-024004	:	

This is a decision on the petition, filed April 24, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 7, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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CLARE L. HOKE, JR
SUITE 11
1318 N. MONTE VISTA AVENUE
UPLAND, CA 91786

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Clare L. Hoke, Jr. :
Application No. 10/713,282 : DECISION ON PETITION
Filed: November 15, 2003 :
Attorney Docket No. :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 5, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

On December 8, 2008, the Office mailed a Notice of Non-Compliant Amendment (Notice), which set a one (1) month or thirty (30) days shortened statutory period to reply. The application became abandoned on January 9, 2009, for failure to submit a timely response to the December 8, 2008 Office action. On July 6, 2009 the Office mailed a Notice of Abandonment.

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

With respect to item 1:

The required reply does not have a proper signature. An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is not signed.

With respect to item 3:

The showing of the record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a). See MPEP 711(c)(II)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

The showing of record is that the delay in taking action in the above-identified application was the result of petitioner's preoccupation with other matters. Petitioner's preoccupation with other matters which took precedence over the above-identified application does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

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 to their most important business. It permits them in the exercise of this care to rely on the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees and such other means instrumentalities 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 to be said to be unavoidable, all other conditions of promptness in its rectification being present."

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 Windklet 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).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

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

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

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

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

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

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

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

/dab/
David Bucci
Petitions Examiner
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 Office action dated December 9, 2008.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,282	11/15/2003	Clare L. Hoke JR.		1123

7590 12/09/2008

Clare L. Hoke Jr.
Suite 11
1318 N. Monte Vista Ave.
Upland, CA 91786

EXAMINER	
MURDOUGH, JOSHUA A	

ART UNIT	PAPER NUMBER
3621	

MAIL DATE	DELIVERY MODE
12/09/2008	PAPER

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

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

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/713,282	HOKE, CLARE L.	
	Examiner	Art Unit	
	JOSHUA MURDOUGH	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on *10 March 2008* 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 _____.
- ☐ 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 attached*.
- ☐ 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.

ACTION

1. The Amendment of 10 March 2008 does not contain reference to claims 1-31. The Examiner acknowledges his note in the previous action in regards to these claims (Paragraph 1). However, the lack of the status for these claims is causing difficulty in processing. As there have been no claims presented with these numbers, an indication that the claims are canceled (as was done for claims 1-12 in the original listing) would be most appropriate.

2. Also, claims 43-45 are currently listed as being withdrawn. A claim can only properly be withdrawn by the Examiner after a restriction. It appears Applicant intended these claims not to be examined in the next office action. If this is the case, Applicant should cancel these claims.

3. With these claims being listed as withdrawn, they are still considered pending and therefore count toward the number of claims. As claims 32-54 would be pending, a fee for the three claims in excess of twenty would be required. If Applicant cancels claims 43-45, as noted above, this situation would also be remedied.

4. To properly respond to this notice, Applicant should:

   a. Submit a new listing of the claims;

   b. Indicate claims 1-31 are canceled; and

   c. Indicate claims 43-45 are canceled **or** Indicate claims 43-45 as previously presented and pay the appropriate fee for the claims in excess of 20.

5. If Applicant replies within 1 month of the mailing date of this notice, and chooses to cancel claims 43-45, there should be no fees due with the response. If Applicant replies after the 1 month period, an extension of time fee must be paid.

6. The reply filed on 10 March 2008 is not fully responsive to the prior Office Action because of the above omission(s) or matter(s). See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. 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). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough, Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621

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CLARE L. HOKE, JR
1318 N. MONTE VISTA AVENUE
SUITE 11
UPLAND, CA 91786

MAILED

FEB 23 2010

OFFICE OF PETITIONS

In re Application of :
Clare L. Hoke, Jr. :
Application No. 10/713,282 : DECISION ON PETITION
Filed: November 15, 2003 :
Attorney Docket No. :

This is a decision on the petition, filed December 1, 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**.

Petitioner requests the Notice of Abandonment mailed July 6, 2009 for the failure to respond to the Office action mailed December 9, 2009 be withdrawn as petitioner timely filed a response. As shown by the itemized copy of the post card receipt date stamped January 5, 2009, a reply was timely received by the USPTO, and thereafter misplaced.

In view of the above, the abandonment is hereby **withdrawn** and the application is **restored to pending status**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3621 for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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MAILED

MAY 28 2010

OFFICE OF PETITIONS

In re Application of Zimmer et al. :
Application No. 10/713,294 : Decision on Petition
Filing Date: November 14, 2003 :
Attorney Docket No. 42.P17570 :

This is a decision on the petition under 37 CFR 1.137(b), filed January19, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 6, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 7, 2010. A Notice of Abandonment was mailed on January 29, 2010.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted the issue fee and publication fee. Petitioner has submitted the required petition fee of $1,620. 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.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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JONES, WALKER, WAECHTER, POITEVENT, CARRERE & DENGRE, L.L.P.
4TH FLOOR
8555 UNITED PLAZA BOULEVARD
BATON ROUGE LA 70809

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OFFICE OF PETITIONS

In re Application of
Larry Schlatre et al.
Application No. 10/713,300
Filed: November 14, 2003
Attorney Docket No. **16980/100547-00**

ON PETITION

This is a decision on the petition filed February 13, 2008 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

A Notice of Allowability, mailed October 15, 2007, required the submission of corrected drawings on or before January 15, 2008. This application became abandoned January 16, 2008. Accordingly, a Notice of Abandonment was mailed February 8, 2008.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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DENGRE, L.L.P.
4TH FLOOR
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BATON ROUGE LA 70809

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Larry Schlatre et al. :
Application No. 10/713,300 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. **16980/100547-00** :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed October 29, 2008 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.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 in the amount of $1825.00 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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David J. Goren, Esquire
Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063

JAN 2 4 2006

In re Application of Zuniga et al.	:	
Application Number: 10/713,316	:	DECISION ON
Filed: November 13, 2003	:	PETITION TO
Attorney Docket Number: 09464-027001	:	WITHDRAW
For: A METHOD OF FABRICATIONG A LATERAL	:	ABANDONMENT
DOUBLE-DIFFUSED MOSFET (LDMOS) TRANSISTOR	:	

This decision is in response to petitioner's "PETITION TO WITHDRAW ABANDONMENT" filed under 37 C.F.R. § 1.181 or 37 CFR § 1.137 filed 24 September 2004 to invoke the supervisory authority of the Director of the USPTO to review the action of the examiner in the above-identified application. The petition is before the Director of Technology Center 2800 for review.

The petition is **GRANTED** to the extent indicated below.

A Notice of Allowance was sent from the Office on April 12, 2004. A Notice of Abandonment was issued for the application on September 1, 2004 on the grounds that the issue fee was not paid. The petitioner contends that he did not receive the Notice of Allowance and has presented evidence supporting his position (see MPEP §711.03(c)(I)(A)). The Office will withdraw the holding of abandonment and remail the Notice of Allowance.

Sharon A. Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components

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KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO, CA 92192-8289

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Sumita RAO :
Application No. 10/713,319 : DECISION ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. UTL 00387 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 6, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 6, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 and publication fee of $300; (2) the petition fee of $1620 and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: GEORGE W. LUCKHARDT
10300 CAMPUS POINT DRIVE
SAN DIEGO, CA 92121

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AUG 08 2007

OFFICE OF PETITIONS

In re Application of :
Qhalid Fareed, et al. :
Application No. 10/713,326 :
Filed: November 14, 2003 :
Attorney Docket No. SETI-0009

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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SNELL & WILMER L.L.P. (1st AMERICAN RE)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Christopher L. Cagan	: DECISION ON REQUEST FOR
Patent Number	: 7599882	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,348	: 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 **1377** 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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MARK W. HROZENCHIK
ROYLANCE ABRAMS BERDO & GOODMAN LLP
1300 19TH STREET, N.W., SUITE 600
WASHINGTON, D.C. 20036-2680

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Sung-Mun Cho	:	
Application No. 10/713,353	:	NOTICE
Filed: November 17, 2003	:	
Attorney Docket No. 45686		

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

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

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

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

This file is being forwarded to Technology Center AU 2838.

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

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FOLEY AND LARDNER LLP
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3000 K STREET NW
WASHINGTON DC 20007

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JUN 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,433,769
Issued: October 7, 2008
Application No. 10/713,354
Filed: November 17, 2003
Dkt. No.: 023971-0341

: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R §1.705", filed November 7, 2008. 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. 7,433,769 on October 7, 2008. The patent issued with a PTA 537 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 537 days to 1,051 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 690 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1), of 514 days do not overlap as these periods do not occur on the same day. The 690-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 17, 2003, and the patent having been issued on October 7, 2008. Patentees assert that in addition to this 690-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) of 514 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 1,204 days (the sum of the period of three year delay (690 days) and the period of examination delay (514 days), reduced by zero days of overlap. As such, patentees assert entitlement to a patent term adjustment of 1,051 days (1,204 days *plus* 153 days *less* zero days of overlap *less* 153 days of applicant delay).

The Office agrees that as of the issuance of the patent on November 17, 2008, the application was pending three years and 690 days after its filing date. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 514 days is correct. At issue is whether patentees should accrue an additional 690 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 514 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 514 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of

> the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-

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 17, 2003, to the date the patent issued on October 7, 2008. Prior to the issuance of the patent, 514 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 690 days after its filing date. However, the Office did not delay 690 days and then delay an additional 514 days. Accordingly, 690 days of patent term adjustment (not 690 days and 514 days) was properly entered because a portion of the period of delay of 690 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 514 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

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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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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of
Jea-Hyuck Lee, et al.
Application No. 10/713,393
Filed: November 14, 2003
Attorney Docket No. 5000-1-496

ON PETITION

This is a decision in response to the petition, filed May 10, 2007, requesting that the above-identified application be withdrawn from issue.

The petition is dismissed as moot.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 21, 2007, with the issue fee being due on or before May 21, 2007. The issue fee has not been paid. However, petitioners request that the application be withdrawn from issue to permit consideration of an information disclosure statement filed with a request for continued examination (RCE) on May 10, 2007.

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

The application is being referred to Technology Center AU 2613 for further processing of the RCE under 37 CFR 1.114 filed May 10, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Carsten Sjoeholm	: DECISION ON REQUEST FOR
Patent Number	: 7658965	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,394	: 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 **1264** 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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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Robert E. Cypher	: DECISION ON REQUEST FOR
Patent Number	: 7606932	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,397	: 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 **1740** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/713,407	11/14/2003	3736	900	END-5005NP	13	3	3

CONFIRMATION NO. 9912

UPDATED FILING RECEIPT

OC000000012203557

000027777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Date Mailed: 03/26/2004

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

Applicant(s)

Robert J. Dunki-Jacobs, Mason, OH;
Yoav Avidor, Cincinnati, OH;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/426,211 11/14/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/17/2004

Projected Publication Date: 07/08/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods and devices for detecting abnormal tissue cells

Preliminary Class

600

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 27, 2006

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/713418 Patent No.: 6,955,380

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

Reconsideration

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: OK TO MAKE CHANGES

CB 3/30/05

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

SPE

3676
Art Unit

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JUL 13 2010

OFFICE OF PETITIONS

HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS MO 63105

In re Patent No. 7,632,859
Issued: December 15, 2009
Application No. 10/713,424
Filed: November 17, 2003
Dkt. No.: 6102-000071/US

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on February 16, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1466 days.

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 18, 2006 and ends on May 18, 2009, the day before the RCE was filed, and not May 19, 2009, 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 913 days, not 914 days. As such, the correct patent term adjustment is 1,465 days, not 1,466 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).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

The application is being forwarded to the Certificates of 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 **1,465** 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 : 7,632,859 B2

DATED : **December 15, 2009** **DRAFT**

INVENTOR(S) : Li, 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 797 days

Delete the phrase "by 797 days" and insert – by 1,465 days--

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of :
Jang-Kun Song :
Application No. 10/713,427 : ON PETITION
Filed: November 17, 2003 :
Docket No. 8071-140T(OPP 031571US) :

This is a decision on the petition, filed June 16, 2006, under 37 CFR 1.182 requesting withdrawal of a previously filed terminal disclaimer. The petition fee has been received.

The petition is **GRANTED**.

Petitioners assert that the Terminal Disclaimer filed on April 11, 2005 no longer applies to any claim currently of record in this application.

As the examiner has concurred, the request can be favorably considered.

The application is being referred to Technology Center Art Unit 1756 for further processing consistent with this decision.

Telephone inquiries related to this decision may 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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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Kelly E. Rollin	: DECISION ON REQUEST FOR
Patent Number	: 7620667	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,429	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1021** 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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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 05/18/2010

Applicant : Kelly E. Rollin
Patent Number : 7620667
Issue Date : 11/17/2009
Application No: 10/713,429
Filed : 11/17/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Commissioner for Patents
United States Patent and Trademark Office
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August 2005

PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
SUITE 365
HOFFMAN ESTATES, IL 60195

SEP 0 1 2005

In re Application of:
KEVIN SCHMITT
Serial No.: 10/713,439
Filed: 14 November 2003
Docket: TCC-102
Title: METHOD AND APPARATUS FOR DETERMINING A COLOR AND BRIGHTNESS OF AN LED IN A CIRCUIT BOARD

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) [INFRINGEMENT]

This is a decision on the petition filed on October 21, 2004, to make the above-identified application special under the procedure set forth in MPEP § 708.02(II) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, the petition provides the requisite fee, a copy of the references deemed most closely related to the subject matter encompassed by the claims, and a statement by the applicant through his attorney.

For an application to be made special under MPEP § 708.02(II) in accordance with 37 C.F.R. §1.102(d), a petition must include the requisite petition fee, a copy of the references deemed most closely related to the subject matter encompassed by the claims, and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device of 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 good knowledge of the pertinent prior art.

The requirements of MPEP § 708.02(II) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02.

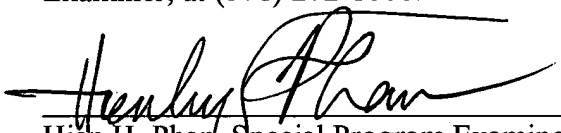
The application file is being forwarded to the examiner for expedited prosecution.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.



Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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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
10/713,449	11/14/2003	2633	856	13449US06	18	14	4

CONFIRMATION NO. 9633

CORRECTED FILING RECEIPT

OC000000012317613

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

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)

Oscar E. Agazzi, Irvine, CA;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/693,709 10/20/2000 *
which claims benefit of 60/160,501 10/20/1999
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 02/23/2004

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

Early Publication Request: No

Title

Method, apparatus and system for high-speed transmission on fiber optic channel

Preliminary Class

398

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ARLENE J. POWERS
GAUTHER & CONNORS LLP
225 FRANKLIN STREET
SUITE 3300
BOSTON, MA 02110

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re Application of
John Franklin Hayhurst
Application No. 10/713,458
Filed: November 14, 2003
Attorney Docket No. 7380

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on July 14, 2005, to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 13, 2004, which set a shortened statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 14, 2005. A Notice of Abandonment was mailed on May 24, 2005.

Petitioner argues that a reply the non-final Office action was mailed on February 13, 2005, and received by the Office. As evidence of the same, petitioner provides a copy of an Office date-stamp postcard acknowledging receipt of an amendment and request for an extension of time within the first month. The postcard is date-stamped February 16, 2005.

The evidence petitioner provides establishes that an amendment and request for extension of time within the first month were received by the Office, but the evidence does not establish that the amendment was timely received so as to merit withdrawal of the holding of abandonment. In order for the amendment to be considered timely under the facts presented, the amendment would either have to have been received by midnight on February 14, 2005 (as evidenced by and Office date-stamped postcard), or the amendment must a contain a certificate of mailing under 37 CFR 1.8 dated prior to, or on, February 14, 2005. No certificate of mailing under 37 CFR 1.8 was found on the amendment papers. The evidence presented does not allow the undersigned to conclude that the amendment was timely received, only that the amendment was received. Petitioner must, however, establish that the amendment was timely received in order to merit withdrawal of the holding of abandonment.

Based on the aforementioned, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is dismissed.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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ARLENE J. POWERS
GAUTHER & CONNORS LLP
225 FRANKLIN STREET
SUITE 3300
BOSTON, MA 02110

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
John Franklin Hayhurst :
Application No. 10/713,458 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 7380

This is a decision on the renewed petition under 37 CFR 1.181 filed on January 30, 2006, to withdraw the holding of abandonment in the above-cited application.

The renewed petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 13, 2004, which set a shortened statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 14, 2005. A Notice of Abandonment was mailed on May 24, 2005. A petition under 37 CFR 1.181 was filed on July 14, 2005, and dismissed by a decision mailed January 17, 2006.

Petitioner argues that a reply the non-final Office action was mailed on February 13, 2005, and received by the Office. As evidence of the same, petitioner provides a copy of an Office date-stamp postcard acknowledging receipt of an amendment and request for an extension of time within the first month. The postcard is date-stamped February 16, 2005. Petitioner also provided a copy of an "Amendment Transmittal Form" with a certificate of mailing dated February 14, 2005. It is noted that the "Amendment Transmittal Form is for application 10/445,785, however.

The evidence petitioner provides establishes that an amendment and request for extension of time within the first month were received by the Office, but does not establish that the amendment was timely received so as to merit withdrawal of the holding of abandonment. In order for the amendment to be considered timely under the facts presented, the amendment would either have to have been received by midnight on February 14, 2005 (as evidenced by and Office date-stamped postcard), or the amendment must a contain a certificate of mailing under 37 CFR 1.8 dated prior to, or on, February 14, 2005. No certificate of mailing under 37 CFR 1.8 for an amendment filed for application 10/713,458 was found on the amendment papers. The evidence presented does not allow the undersigned to conclude that the amendment was timely received, only that the amendment was received. Petitioner must, however, establish that the amendment was timely received in order to merit withdrawal of the holding of abandonment.

Based on the aforementioned, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is dismissed. If petitioner chooses to file a second renewed petition under 37 CFR 1.181(a) with an appropriate certificate of mailing, petitioner must be sure to provide a the statement of personal knowledge regarding the mailing of the amendment as indicated by the Manual of Patent Examining Procedure, Section 711.03(c).

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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225 FRANKLIN STREET
SUITE 3300
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of

John Franklin Hayhurst :

Application No. 10/713,458

: DECISION ON PETITION

Filed: November 14, 2003

:

Attorney Docket No. 7380

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 13, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 14, 2005. A Notice of Abandonment was mailed on May 24, 2005.

The amendment filed March 16, 2006, is noted.

The application is being forwarded to Technology Center 3700, GAU 3723 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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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of
Darush Farshid et al.
Application No. 10/713,474
Filed: November 14, 2003
Attorney Docket No.: G-128

ON PETITION

This is a decision on the petition filed February 22, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 28, 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 September 29, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The petition fee in the amount of $1500.00 has been applied.

This matter is being referred to Technology Center 1764 for appropriate action on the amendment filed February 22, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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) grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/05/07

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/713476 Patent No.: 6909945

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: Parent application number 09/104,461 was incorrect as filed (applicant's error), however, applicant correctly identified patent number 6,065,406 as the parent application

SPE

3661
Art Unit

In the United States Patent and Trademark Office

Appn. Serial Number: 10/713,478
Appn. Filed: 11/15/2003
Applicant(s): HEIKKI HUIK
Appn. Title: APPARATUS AND METHOD FOR MAKING COFFEE EXTRACT
Examiner/GAU: CANO, MILTON/

OIPE IAP52
OCT 31 2005
PATENT & TRADEMARK OFFICE

Mailed: 10/15/05
At: SCHERERVILLE, INDIANA

Petition to Make Special

Commissioner for Patents
Washington, District of Columbia 20231

Sir:

Applicant hereby respectfully petitions that the above application be made special under MPEP Sec. 708.02 for the following reason; attached is a declaration in support thereof:

I. ☐ Manufacturer Available;*
II. ☐ Infringement Exists;*
III. ☐ Applicant's Health Is Poor;
IV. ☑ Applicant's Age Is 65 or Greater;
V. ☐ Environmental Quality Will Be Enhanced;
VI. ☐ Energy Savings Will Result;
VII. ☐ Recombinant DNA Is Involved;*
VIII. ☐ Special Procedure: Search Was Made;*
IX. ☐ Superconductivity Is Advanced;
X. ☐ Relates to HIV/AIDS or Cancer;*
XI. ☐ Counters Terrorism.*

*☐ Also attached, since reason I, II, VII, VIII, X or XI has been checked, is the $_____ Petition Fee pursuant to Rules 102 and 17(i).

Very respectfully,
Applicant(s): Heikki Huik

Attachment(s): Fee if indicated and supporting Declaration
Applicant(s): _____

c/o: _____

Telephone: 219-322-8371

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

JUN - 6 2007

Certificate of Mailing

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, Washington, DC 20231" on the date below.

Date: 2005 OCTOBER 5th. Heikki Huik, Applicant

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2000 US HWY 63 SOUTH
MOBERLY MO 65270

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OFFICE OF PETITIONS

In re Application of :
Klos et al. :
Application No. 10/713480 :
Filing or 371(c) Date: 11/14/2003 : ON PETITION
Attorney Docket Number: EL027PK-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 29, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 30, 2006. A Notice of Abandonment was mailed March 8, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. 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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 1775 for processing of the Amendment filed with the petition 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

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Pet. Dec.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 2 1 2004

DCM

In re Application of	:	
Marvin C. Buchanan, Sr.	:	
Serial Number: 10/713,506	:	PETITION UNDER
Filed: November 14, 2003	:	M.P.E.P.708.02 IV
For: PREFABRICATED INSULATION FOR HVAC DUCTWORK AND OTHER FLUID CONDUITS	:	

This is in response to the petition filed November 14, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

THOMAS W. EPTING
LEATHERWOOD WALKER TODD & MANN, P.C.
300 EAST MCBEE AVENUE, SUITE 500
P.O. BOX 87
GREENVILLE SC 29601

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/713,514	11/14/2003	2863	1028	128410-2 (13865US02)	10	10	6

CONFIRMATION NO. 9965

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

CORRECTED FILING RECEIPT

OC000000012317456

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)

Peter T. Anderson, Andover, MA;
Gerald L. Beauregard, Hampton, NH;
Christopher D. Cherry, Bolton, MA;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/108,197 03/27/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/23/2004

Projected Publication Date: 06/03/2004

Non-Publication Request: No

Early Publication Request: No

Title

Magnetic tracking system

Preliminary Class

702

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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KIMTON N. ENG, ESQ.
DORSEY & WHITNEY
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of :
Shane Ching-Feng Hu :
Application No. 10/713,527 : ON PETITION
Filed: November 12, 2003 :
Attorney Docket No. 501147.03 (30119/US/3) :

This is a decision on the petition, filed December 6, 2004, 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 October 25, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and IDS.

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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GRAYBEAL JACKSON HALEY LLP
155-108th AVENUE NE, SUITE 350
BELLEVUE, WA 98004-5973

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APR 0 1 2008

OFFICE OF PETITIONS

In re Application of :
BEZ, et al. :
Application No. 10/713,538 : DECISION GRANTING PETITION
Filed: November 14, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2110-62-3** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 27, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 31, 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]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. James J. Carter 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 in accordance with 37 CFR 1.34(a).

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

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10713538

Total Records Found: 15

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/27/2008	00000059	1	1464	$130.00	03/27/2008	CK
03/27/2008	00000060	1	1801	$810.00	03/27/2008	CK
03/27/2008	00000061	1	1806	$180.00	03/27/2008	CK
01/02/2008	00000056	1	1501	$1,440.00	12/31/2007	CK
01/02/2008	00000057	1	1504	$300.00	12/31/2007	CK
02/07/2007	00000040	1	1801	$790.00	02/07/2007	CK
02/07/2007	00000041	1	1253	$1,020.00	02/07/2007	CK
01/19/2007	00000001	1	1201	$200.00	01/08/2007	DA 071897
01/09/2007	00000003	1	1252	$450.00	01/08/2007	CK
05/21/2004	00000092	1	8021	$40.00	05/19/2004	CK
05/21/2004	00000031	1	1001	$770.00	05/20/2004	CK
05/21/2004	00000032	1	1051	$130.00	05/20/2004	CK
05/21/2004	00000033	1	1202	$504.00	05/20/2004	CK
05/21/2004	00000034	1	1201	$258.00	05/20/2004	CK
05/21/2004	00000035	1	1251	$110.00	05/20/2004	CK

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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
802 WEST BANNOCK STREET, SUITE 405
BOISE ID 83701

In re Application of
Anthony Noll et al.
Application No. 10/713,557
Filed: November 13, 2003
Attorney Docket No.: NOLT101
Title: MSW PROCESSING VESSEL

DECISION ON PETITION UNDER
37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed December 7, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed February 17, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 18, 2004. A Notice of Abandonment was mailed November 30, 2004.

With the petition, Petitioner has submitted the petition fee, the basic filing fee, the additional claim fees, a declaration and the surcharge associated with the late filing of the same, replacement drawings, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

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

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

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
10/713,588	11/12/2003	3672	856	P1731US01	3	19	4

CONFIRMATION NO. 1988

CORRECTED FILING RECEIPT

OC000000018436002

22267
CROWE AND DUNLEVY, P.C.
20 NORTH BROADWAY
SUITE 1800
OKLAHOMA CITY, OK 73102-8273

Date Mailed: 03/31/2006

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 M. Sakamoto, Oklahoma City, OK;

Power of Attorney:

Phillip Free–38143
David Sullivan–51025
Bruce LaBrie–53172

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/466,445 04/30/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/713,588

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

HIGH TEMPERATURE MECHANICAL SEAL

Preliminary Class

166

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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/713591 received on 01/22/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

K&L Gates LLP
214 N. TRYON STREET
HEARST TOWER, 47TH FLOOR
CHARLOTTE, NC 28202

Mail Date: 04/21/2010

Applicant	: Robert J. Nolan	: DECISION ON REQUEST FOR
Patent Number	: 7572479	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,614	: 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 **139** 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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/30/04

Barbara J. Carter
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/713617 received on 01/22/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/713,631	11/13/2003	3617	385	2202-1-3	11	20	3

CONFIRMATION NO. 2415

000996
GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE, WA 98004-5901

CORRECTED FILING RECEIPT

OC000000012354578

Date Mailed: 04/14/2004

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

Applicant(s)

Robert P. Bielka, Seattle, WA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/17/2004

Projected Publication Date: 05/19/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Removable or invertable in-situ model railroad wheel cleaner

Preliminary Class

238

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

JUN 04 2007

In re Application of:
DUNKI-JACOBS, ROBERT J. et al
Serial No.: 10/713,637
Filed: Nov. 14, 2003
Docket: END-5240
Title: METHODS AND DEVICES FOR DETECTING TISSUE CELLS

DECISION ON PETITION TO WITHDRAW OF HOLDING OF FINALITY

This is a decision on the petition filed on Feb. 1, 2006 to withdraw the finality of the Office Action of Jan. 26, 2006. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED as moot**.

In the petition the applicant requested a withdrawal of the finality of the Office action mailed on Jan. 26, 2006. In support of his petition, the applicant argues that the examiner's final rejection of Jan. 26, 2006 is essentially a final rejection on new grounds not previously raised by the examiner.

The record shows that:

1) In response to a non-final Office action, on Nov. 14, 2005, the applicant filed an amendment to claim 11 and in the remarks section of the amendment, requested the examiner to point out specifically where the Kovacs reference teaches the limitations set forth in claims 20-22 so that applicant has a full and fair opportunity to respond.
2) On Jan. 26, 2006, the examiner issued a final Office action and addressed applicant's inquiry with respect to claims 20-22 by stating that Kovacs inherently disclosed mulitiple isoptope since the spectrophotometer is grated to accommodate multiple wavelength or ranges of wavelength of the radioisotope emission when under excitation.
3) On Feb. 1, 2006, the applicant filed the current request for withdrawal of finality of office action and issuance of a new office Action.
4) On May 22, 2006, the applicant filed an RCE for further continuing examination of the application.

5) On Jul. 5, 2006, the examiner withdrew the finality of the final Office action of Jan. 26, 2006 and issued a non-final Office action.

In view of the prosecution history, the relief the applicant requested, namely the withdrawal of the finality of the Jan. 26, 2006 Office Action, has already occurred. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/713644 received on 01/22/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED

NOV 0 5 2004

Technology Center 2100

STEPHEN C. GLAZIER
KIRKPATRICK & LOCKHART LLP
1800 MASSACHUSETTS AVENUE, NW
WASHINGTON, DC 20036

In re Application of: McGrogan
Application No. 10/713,650
Filed: November 14, 2003
For: SEGMENTED GLOBAL AREA DATABASE

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

This is a response to the petition filed May 13, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed May 13, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (identified most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of the independent claim(s) is (are) specifically distinguishable and patentable from the references provided in requirement (d) above. Note, it appears from Petition's discussion that a comparison of the language of dependent claim 5 has been made, rather than a discussion relating to the language found in independent claims 1, 3, 30, 33 and 35.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

BLJ: 10/27/04

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

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,605,844
Issued: October 20, 2009
Application No. 10/713,662
Filed: November 13, 2003
Attorney Docket No. 16113-1308001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on December 21, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 619 days to 1188 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-three (1183) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 14, 2006 and ends on January 6, 2009, the day before the RCE was filed, and the B delay considering the 221 days of overlap is 785 (not 790) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1183, not 1188 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the

term of the above-identified patent is extended or adjusted by **one thousand one hundred eighty-three (1183)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,605,844 B1

DATED : October 20, 2009

INVENTOR(S) : Page 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 (619) days

Delete the phrase "by 619 days" and insert – by 1183 days--

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 14:29:11

PTA Calculations for Application: 10/713662			
Application Filing Date:	11/13/2003	PTO Delay (PTO):	890
Issue Date of Patent:	10/20/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	271
Post-Issue Petitions:	0	Total PTA (days):	1183
PTO Delay Adjustment:	564		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	564		
74.5	09/30/2009	PTA 36 MONTHS			
74	10/20/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
73	09/21/2009	EXPORT TO FINAL DATA CAPTURE			
72	09/18/2009	DISPATCH TO FDC			
71	09/08/2009	RESPONSE TO REASONS FOR ALLOWANCE			
70	09/15/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	09/08/2009	ISSUE FEE PAYMENT VERIFIED			
68	09/08/2009	ISSUE FEE PAYMENT RECEIVED			
67	07/07/2009	FINISHED INITIAL DATA CAPTURE			
66	06/15/2009	EXPORT TO INITIAL DATA CAPTURE			
63	06/12/2009	MAIL NOTICE OF ALLOWANCE			
62	06/09/2009	ISSUE REVISION COMPLETED			
61	06/09/2008	DOCUMENT VERIFICATION			
60	06/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	06/09/2009	CASE DOCKETED TO EXAMINER IN GAU			
58	06/08/2009	NOTICE OF ALLOWABILITY			
55	04/07/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	05/27/2009	NEW OR ADDITIONAL DRAWING FILED			
53	05/31/2009	DATE FORWARDED TO EXAMINER			
52	05/27/2009	RESPONSE AFTER NON-FINAL ACTION		7	44
51	05/27/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			

50	04/07/2009	REFERENCE CAPTURE ON IDS			
49	04/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	04/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	02/20/2009	ELECTRONIC REVIEW			
45	02/20/2009	EMAIL NOTIFICATION			
44	02/20/2009	MAIL NON-FINAL REJECTION			
43	02/17/2009	NON-FINAL REJECTION			
42	01/08/2009	DATE FORWARDED TO EXAMINER			
41	01/07/2009	RCE- AF PROCESSED			
40	01/08/2009	DATE FORWARDED TO EXAMINER			
39	01/07/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	01/08/2009	DISPOSAL FOR A RCE / CPA / R129			
37	01/07/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	12/26/2008	EMAIL NOTIFICATION			
35	12/26/2008	MAIL ADVISORY ACTION (PTOL - 303)			
34	12/22/2008	ADVISORY ACTION (PTOL-303)			
33	12/10/2008	DATE FORWARDED TO EXAMINER			
32	12/05/2008	AMENDMENT AFTER FINAL REJECTION			
31	10/18/2008	MAIL POST CARD			
30	10/10/2008	EMAIL NOTIFICATION			
29	10/09/2008	MAIL FINAL REJECTION (PTOL - 326)			
28	10/01/2008	FINAL REJECTION			
27	07/23/2008	DATE FORWARDED TO EXAMINER			
26	06/12/2008	RESPONSE AFTER NON-FINAL ACTION		142	21
25	05/29/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
24	05/15/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
23	05/12/2008	CORRESPONDENCE ADDRESS CHANGE			
22	03/12/2008	DATE FORWARDED TO EXAMINER			
21.1	01/22/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
21	01/22/2008	RESPONSE AFTER NON-FINAL ACTION		122	18
20	01/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	06/22/2007	MAIL NON-FINAL REJECTION	890		-1

17	06/19/2007	NON-FINAL REJECTION			
16	01/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	02/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	06/24/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	05/26/2004	TRANSFER INQUIRY TO GAU			
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9	02/19/2004	APPLICATION RETURN FROM OIPE			
8	02/19/2004	APPLICATION RETURN TO OIPE			
7	02/18/2004	APPLICATION DISPATCHED FROM OIPE			
6	02/19/2004	APPLICATION IS NOW COMPLETE			
5	11/13/2003	PGPUBS NONPUB REQUEST			
4	01/30/2004	CLEARED BY OIPE CSR			
3	01/30/2004	CASE CLASSIFIED BY OIPE			
2	12/22/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/13/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JJGJr: 08-06

Paper No: ___

CATERPILLAR INC.
INTELLECTUAL
PROPERTY DEPT. AB6490
100 N.E. ADAMS
PEORIA IL 61629-6490

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of:	:	
Yoshino,et al.	:	
Patent No.: 6,945,039	:	
Issue Date: 20 September, 2005	:	
Application No. 10/713,667	:	ON PETITION
Filed: 14 November, 2003	:	
Attorney Docket No.: 03-220	:	

This is a decision on the request filed on 19 December, 2005, under 37 C.F.R. §3.81 wherein Petitioner seeks the have the Office accept the correction of the instant patent to reflect issuance in the name of the assignee, and considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 (for waiver) and 37 C.F.R. §3.81–the Issue Fee transmittal was submitted with an error as to the assignee identification.

NOTE: **Petitioner is reminded and placed on Notice that the Rules of Practice mandate that Petitioner provide both the application and patent numbers, as well as filing and issue dates, in all matters regarding this patent.**[1]

[1] See: 37 C.F.R. §1.366 and MPEP §2515.

The petition is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §3.81 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) will not be permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.323, §1.183 and §3.81."

(2) Thereafter, there will be no further reconsideration of this matter.

(3) Petitioner is cautioned always to use both the patent number and application serial number, as well as filing date and issue date when addressing matters attendant to this file.

BACKGROUND

As is evident from the caption, above, the instant application:

- was filed on 14 November, 2003; and
- issued as a patent on 29 September, 2005.

On payment of the Issue Fee, Petitioner failed to indicate properly the assignee(s) for the issuance data.

It appears that Petitioner failed to review for guidance in this matter MPEP §307 and §§1480 - 1485. (See, in particular: MPEP §1481.01.)

ANALYSIS

Congress has authorized the issuance of patents in the name(s) of the assignee(s):

> **35 U.S.C. §152 Issue of patent to assignee.**
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and

> the specification sworn to by the inventor, except as otherwise provided in this title. (Emphasis supplied.)

Pursuant to that authorization, the Office has promulgated the regulations set forth at 37 C.F.R. §3.81 that set forth the procedure applicable to the process:

> **§ 3.81 Issue of patent to assignee.**
> (a) *With payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b).
> (b) *After payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance along with the processing fee set forth in § 1.17(I) of this chapter is submitted after the date of payment of the issue fee, but prior to issuance of the patent, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b).
> (c) *Partial assignees.*
> (1) If one or more assignee(s) together with one or more inventor(s) hold the entire right, title, and interest in the application, the patent may issue in the names of the assignee(s) and the inventor(s).
> (2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees. (Emphasis supplied.)

Specifically, the commentary at MPEP §1481.01 provides that:

> 1481.01 Correction of Assignees' Names [R-3] - 1400 Correction of Patents
>
> 1481.01 Correction of Assignees' Names [R-3]

> The Fee(s) Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 3) for assignment data which should be completed in order to comply with 37 C.F.R. 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B), the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.
>
> Any request for the 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:
>
> (A) state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent;
>
> (B) include a request for a certificate of correction under 37 C.F.R. §1.323 along with the fee set forth in 37 C.F.R. §1.20(a); and
>
> (C) include the processing fee set forth in 37 C.F.R. §1.17(i).
>
> See 37 C.F.R. §3.81(b).

Petitioner appears not to have authorized all of the required fees (petition, waiver (37 C.F.R. §1.183), and certificate) and or provided general authorization in excess of a specified fee.

CONCLUSION

Accordingly, the petition is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[2] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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APR 7 2006
OFFICE OF PETITIONS

In re Application of :
David Zimmerman :
Application No. 10/713,673 : ON PETITION
Filed: November 13, 2003 :
Attorney Docket No. 5038-299 :

This is a decision on the papers styled, "Response To Notice of Abandonment," which has been treated as a petition under 37 CFR 1.181, filed January 17, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed May 10, 2005. Accordingly, this application became abandoned on August 11, 2005. A Notice of Abandonment was mailed on January 10, 2006.

Petitioner asserts that a response to the May 10, 2005 Office action was submitted by facsimile on August 3, 2005. In support, petitioner has submitted a copy of the originally filed response. The response includes an executed Certificate of Facsimile Transmission under 37 CFR 1.8 dated August 3, 2005. Additionally, petitioner has submitted a copy of the "Auto-Reply Facsimile Transmission report" that confirms transmission and receipt of the documents on August 3, 2005.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 2800, for review of the response to the non-final Office action, filed January 17, 2006 (originally filed August 3, 2005).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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COMPUTER PATENT ANNUITIES
225 REINEKERS LANE
SUITE 400
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Ken Y. Lin	: DECISION ON REQUEST FOR
Patent Number	: 7611844	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/713,674	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **68** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUN 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Galgano & Burke
300 Rabro Drive, Suite 35
Hauppauge NY 11788

In re application of
Joy Mangano
Application No. 10/713,680
Filed: November 14, 2003
For: NAIL POLISHING STAND AND STORAGE CABINET

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on December 22, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in deciding this petition is regrettable.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition is **DISMISSED**

The petition fails to meet requirement (E) above. The petition itself does not make it clear how the claimed invention is patentable over the cited references in accordance with 37 CFR 1.111(b) and (c). Applicant is required to provide a detailed discussion of how the claimed subject matter is patentable over each of the most closely related references. Applicant has not specifically indicated the claim language that distinguishes the invention over the cited prior art.

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.

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

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

SNM/mjz: 5/25/04

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of	:	
Peles, Amir	:	
Application No. 10/713,684	:	ON PETITION
Filed: November 14, 2003	:	
Attorney Docket No. RADW 20.043	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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 continuing application No. 12/197,648.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

FOLEY & LARDNER
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MILWAUKEE, WI 53202-5367

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of :
Gregory J. Sesselemann :
Application No. 10/713,686 :
Filed: November 14, 2003 : NOTICE
Attorney Docket No. :
073328-0156 :

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

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

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

This file is an Image File Wrapper file and, as such, no forwarding of the file is necessary. Examination of the application in Technology Center Art Unit 3765 will proceed in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

Kit M. Stetina, Esq.
Stetina, Brunda, Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

In re application of : **DECISION ON PETITION**
Kenneth R. Thurm : **TO MAKE SPECIAL**
Application No. 10/713,697 : **(INFRINGEMENT)**
Filed: November 14, 2003 :
For: VERTICALLY STOWABLE MODULAR MULTI-PURPOSE TRAILER

This is a decision on the petition under 37 C.F.R § 1.102(d) filed August 16, 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.

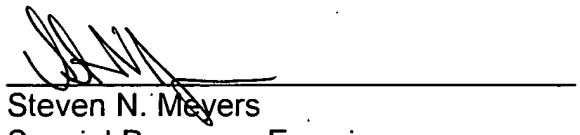
MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method 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 August 16, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on January 26, 2004.

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

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



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

SNM/snm: 11/15/04

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JOHN NADRATOWSKI
297 SCHWABBIE TPKE
KERHONKSON NY 12446

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Robert Nadratowski et al :
Application No. 10/713,704 : DECISION DISMISSING PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.137(a)
For: DEVICE FOR USE WITH A GOLF CLUB TO PICK UP OBJECTS :

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

The petition is **DISMISSED**.

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

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

With regard to item (3), the petition is not considered to contain an adequate statement or showing of unavoidable delay since the petition is not signed by all the inventors. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Robert Nadratowski) was ever given a power of attorney to act on behalf of inventor John Arthur Nadratowski, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unavoidable delay.

As to item (1) above, petitioner herein has submitted a credit card authorization form to charge the following fees: $300 for the publication fee; $665 for the issue fee; and $250 for the unavoidable petition fee. However, the correct amount for the issue fee, effective December 8, 2004 is $700. Therefore, petitioner should submit a new credit card authorization form to charge the correct amount of all the fees.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN NADRATOWSKI
297 SCHWABBIE TPKE
KERHONKSON NY 12446

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APR 04 2005

OFFICE OF PETITIONS

In re Application of :
Robert Nadratowski et al :
Application No. 10/713,704 : DECISION GRANTING PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.137(a)
For: DEVICE FOR USE WITH A GOLF :
CLUB TO PICK UP OBJECTS

This is a decision on the renewed petition under 37 CFR 1.137(a), filed March 22, 2005, to accept the late payment of the issue and publication fees and to revive the above-identified application.

The petition is **GRANTED**.

The petitions now satisfy the conditions for revival pursuant to the provisions of 37 CFR 1.137(a) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee of $250; and (3) an adequate showing of unavoidable delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of this application into a patent should be directed to Publishing Division, Customer Service, at (703) 308-6789.

This matter is being referred to Publishing Division.

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

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MAY 12 2009

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of:
Palese et al.
Serial No.: 10/713,732
Filed: November 14, 2003
Attorney Docket No.: **6923-118**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 7, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the information submitted to the Patent Office on May 7, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

AUG 13 2009

OFFICE OF PETITIONS

In re Application of :
Palese, et al. :
Application No. 10/713,732 : ON APPLICATION FOR
Filed: November 14, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 6923-118 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed June 12, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred twelve (812) days[1], not two hundred ninety-eight(298) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even in this instance where a request for continued examination (RCE) was filed.) The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

[1] This calculation is based on a projected issuance date of October 6, 2009.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination)is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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MAR 2 1 2008

OFFICE OF PETITIONS

In re Application of
Bruce W. MCGAUGHY, et al
Application No. 10/713,754
Filed: November 13, 2003
Attorney Docket No. 188122001900

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 8, 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 Norman R. Klivans on behalf of all attorneys of record.

All attorneys/agents of record 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).

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BRUCE W. MCGAUGHY
240 YERBA BUENA PLACE
FREMONT, CA 94536

THOMAS CHAN
WHEELOCK CHAN LLP
2880 ZANKER ROAD, SUITE 109
SAN JOSE, CA 95134

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BRUCE W. MCGAUGHY
240 YERBA BUENA PLACE
FREMONT, CA 94536

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MAR 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Bruce W. MCGAUGHY, et al :
Application No. 10/713,754 : DECISION ON REQUEST FOR
Filed: November 13, 2003 : REVOCATION OF POWER
Attorney Docket No. 188122001900 : 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 March 12, 2008.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: THOMAS CHAN
WHEELOCK CHAN LLP
2880 ZANKER ROAD, SUITE 109
SAN JOSE, CA 95134

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/713,754	11/13/2003	Bruce W. McGaughy	188122001900

CONFIRMATION NO. 1629

IMPROPER CPOA LETTER

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

OC000000028974485

Date Mailed: 03/21/2008

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2008. The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

/hchristian/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/713,754	11/13/2003	Bruce W. McGaughy	188122001900

CONFIRMATION NO. 1629

POWER OF ATTORNEY NOTICE

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

OC000000028998336

Date Mailed: 03/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2008.

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

/hchristian/

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

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Kenton D. Geer, et al. :
Application No. 10/713,769 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No.: FCC100CIPDIVCON :
:

This is a decision on the petition, filed January 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 5, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3728 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

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MAR 30 2006
OFFICE OF PETITIONS

In re Application of :
Alastair James Buchanan, et. al. :
Application No. 10/713,789 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 1-24912 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the final Office action mailed June 6, 2005. A Notice of Abandonment was mailed on January 31, 2006.

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

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3663.

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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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET, SUITE #1600
ONE WORLD TRADE CENTER
PORTLAND OR 97204-2988

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Romero et al.	:	
Application No. 10/713,791	:	DECISION REFUSING STATUS
Filed: November 13, 2003	:	UNDER 37 CFR § 1.47(a)
Attorney Docket No. 4239-67284-01	:	
For : METHOD AND KITS FOR DETERMINING	:	
RISK OR PRE-TERM DELIVERY	:	

This is a decision on the petition styled "Petition Under 37 CFR 1.47 to Accept This Application Where Joint Inventors Have Refused to Join" filed July 18, 2004. The petition is being treated under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to 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 13, 2003, without an executed oath or declaration and missing the statutory basic filing fee. Accordingly, on February 24, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration, payment of the filing fee, additional claim fees and payment of the surcharge for late filing under § 1.16(e).

In response, rule 47 applicants filed the instant petition, along with payment of the petition fee, the basic filing fee, additional claim fees and the late surcharge. This response was made timely by an accompanying petition (and fee) for extension of time within the third month. On petition, applicants assert that status under § 1.47(a) is proper because inventors Buhimschi and Christner

refuse to join in the application. In support thereof, applicant submits a statement of facts by patent attorney Kevin M. Hayes.

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

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition includes payment of the petition fee and includes a statement of the last known address of non-signing inventors. However, the petition does not include an acceptable declaration.

Pursuant to 35 U.S.C. 115 and 37 CFR § 1.63(a), an oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must identify the country of citizenship of each inventor. Further, the declaration, pursuant to § 1.63(c)(1), unless such information is supplied on an application data sheet in accordance with § 1.76, must also identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

Although the declaration submitted identifies by name inventors Buhimschi and Christner as a joint inventors, the declaration does not include the respective citizenship and mailing address for either inventor. Nor does the application include an application data sheet in accordance with § 1.76 identifying the respective inventors mailing address and/or residence.

The requirement for the citizenship of inventors Buhimschi and Christner is statutory and cannot be waived. A new declaration is required. The requirement for submission of the mailing address and/or residence of inventors Buhimschi and Christner may be satisfied in the new declaration or by way of submission of an application data sheet. See § 1.76.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306**.

Any questions concerning this matter may be directed to the undersigned at (703) 305-9220.

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

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121 S.W. SALMON STREET, SUITE #1600
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PORTLAND, OR 97204-2988

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OFFICE OF PETITIONS

In re Application of
Roberto Romero, Irina Buhimschi, and
Robert Christner
Application No. 10/713,791
Filed: November 13, 2003
Attorney Docket No. 4239-67284-01

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the "Request for Reconsideration of Petition under 37 CFR § 1.47(a)" filed October 14, 2004.

The petition is **GRANTED**.

The above-identified application was filed on November 13, 2003, without an executed oath or declaration. Roberto Romero, Irina Buhimschi, and Robert Christner were named as joint inventors. In response to a "Notice to File Missing Parts of Nonprovisional Application," mailed February 24, 2004, applicants filed the initial petition under §1.47(a)(and fee) and late surcharge under §1.16(l).

However, the petition was dismissed because the declaration submitted was not acceptable because it was not executed by all of the available joint inventors on behalf of the themselves and on behalf of the nonsigning inventors Roberto Romero, Irina Buhimschi, and Robert Christner.

The present petition includes a declaration executed by Roberto Romero on behalf of himself and nonsigning joint inventors Irina Buhimschi and Robert Christner. The declaration and the petition have been reviewed and found in compliance with 37 C.F.R. § 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

The application file is being forwarded to Technology Center 1641 for appropriate action, including notifying applicant of the new status of this application.

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

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

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ROBERT CHRISTNER
C/O NATIONAL FOUNDATION FOR FUNCTIONAL
BRAIN IMAGING
801 UNIVERSITY BLVD., SUITE 200
ALBUQUERQUE, NM 87106

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DEC 30 2004

OFFICE OF PETITIONS

In re Application of :
Roberto Romero, Irina Buhimschi and :
Robert Christner :
Application No. 10/713,791 :
Filed: November 13, 2003 :
Title: METHODS AND KITS FOR DETER- :
MINING RISK OF PRE-TERM DELIVERY :

LETTER

Dear Mr. Christner:

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) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET, SUITE #1600
ONE WORLD TRADE CENTER
PORTLAND OR 97204-2988

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MAY 2 4 2004

Director's Office
Group 3700

McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410

In re application of
Percher

Serial Number: 10/713797
Filed: November 13, 2003

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

For: **AUTOMATIC ACTUATOR FOR AEROSOL CONTAINERS**

This is a decision on the petition filed on November 13, 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 is 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
(703) 308-0975

rt: 5/21/04

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Commissioner for Patents
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Crompton Corporation
Benson Road
Middlebury CT 06749

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of
E. Brian Fox
Application No. 10/713,805
Filed: 11-14-2003
Attorney Docket No. 0203-PA

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue on or before January 4, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 4, 2006. Accordingly, the date of abandonment of this application is January 5, 2007. On February 7, 2007, the Office mailed a Notice of Abandonment.

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; (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) 272-3211.

This matter is being referred to Office of Patent Publications for processing into a patent.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FILE COPY

September 19, 2006

Patent No. : 7,074,795 B2
Ser. No. : 10/713828
Inventor(s) : Paruch, et al.
Issued : July 11, 2006
Title : **17β-HYDROXYSTEROID DEHYDROGENASE TYPE 3 INHIBITORS FOR THE TREATMENT OF ANDROGEN DEPENDENT DISEASE**
Docket No. : **OC1574**

Re: Request for Certificate of Correction

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

The alleged error in **column 37**, **line 57** is a change made in an Examiner's Amendment at time of allowance. Since applicant filed no objection prior to payment of the base issue fee, no correction is in order here under Rule 1.322.

In view of the foregoing, your request in this matter is denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 22, 2007

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No. 10/713836 patent no. 7265265

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: PALM ~~has~~ been updated to add inventor. The petition was approved by the examiner, and sent to scanning

SPE

1638
Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/713,836	Confirmation No. : 5758
Applicant	:	Kanwarpal S. Dhugga	
Filed	:	11/14/2003	
TC/A.U.	:	1638	
Examiner	:	Kallis, Russell	
Docket No.	:	1520	
Customer No.	:	27310	
Title	:	Genes for Galactomannan Production in Plants and Methods of Use	

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

petition granted OK to enter
R.K.
1638
8/7/2009

REQUEST AND FEE TO ADD NOT NAMED INVENTOR(S) IN – NONPROVISIONAL APPLICATIONTON - DECLARATION (37 CFR § 1.48(a))

1. This amendment and request is to correct the incorrect original naming of inventor(s) in the declaration under 37 CFR § 1.48(a) as set forth and filed on March 19, 2004.

2. Addition of Inventor(s)

   Add the following previously unnamed person(s) as inventor(s) of this application: Roberto Barreiro

3. Attachments

   Attached is

   (a) A statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part. 37 CFR § 1.48(a)(1).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

In re Application of :
Gorin et al. : DECISION ON PETITION
Application No. 10/713,840 :
Filed: November 14, 2003 :
Attorney Docket No. 1999-0679A-CON :

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2006, to revive the above-identified application.

This application became abandoned for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on December 1, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on March 2, 2006.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted.**

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,861	11/14/2003	Jonathan Minden	94363CIPDIVDIV	1855

26285 7590 08/03/2009

K&L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

EXAMINER	
COOK, LISA V	
ART UNIT	**PAPER NUMBER**
1641	
MAIL DATE	**DELIVERY MODE**
08/03/2009	PAPER

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

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

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United States Patent and Trademark Office
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KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

In re Application of:
Jonathan Minden:
Serial No.: 10/713,861:
Filed: 11/14/2003: PETITION DECISION
Attorney Docket No.: 94363CIPDIVDIV :

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed April 26, 2004. Entry of color drawings requires: 1) three sets of color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

/Mark L. Shibuya/
Supervisory Patent Examiner, Art Unit 1641

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/10/08

TO SPE OF : ART UNIT 1623 Peselev, Elli

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/713681 Patent No.: 7078195

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

XXX ☐ Approved — All changes apply.

☐ Approved in Part — Specify below which changes do not apply.

☐ Denied — State the reasons for denial below.

Comments: The C of C has been approved.

/S. A: Jiang/ — SPE

1623 — Art Unit

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Commissioner for Patents
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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of
LEVINSON, Benjamin et al.
Application No. 10/713,889
Filed: November 13, 2003
Attorney Docket No. **331640-73**

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 06, 2009.

The request is moot because a revocation of power of attorney has been previously filed.

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 March 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI, STEWART & OLSTEIN**
5 BECKER FARM ROAD
ROSELAND NJ 07068

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/403,703	08/15/2002	Stefano Giuliano	60,126-210

CONFIRMATION NO.

OC000000011307594

Gregory D. DeGrazia
The Pinehurst Office Center, Suite #101
39400 North Woodward Avenue
Bloomfield Hills, MI 48304-5151

Date Mailed: 11/19/2003

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **08/15/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,894.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/443,859	01/31/2003	Dan Revital	25531

CONFIRMATION NO.

OC000000011637451

G. E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

Date Mailed: 01/07/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **12/01/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,896.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/427,345	11/19/2002	Sherry Lynn Hadden	

CONFIRMATION NO.

OC000000011637807

Sherry Lynn Hadden
Balch & Bingham LLP
Post Office Box 22587
Jackson, MS 39225

Date Mailed: 01/07/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **11/17/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,897.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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Sherry Lynn Hadden
Balch & Bingham LLP
Post Office Box 22587
Jackson MS 39225-2587

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Hadden :
Application No. 10/713,897 : DECISION ON PETITION
Filed: November 19, 2002 :
For: STANDING FEATHER :
BEAUTY PRODUCT APPLICATOR :

This is a decision on the petition under 37 CFR 1.181, filed November 29, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed January 7, 2004. The Office communication set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed November 7, 2005.

Petitioner argues that the Office communication was not received and further indicates that the Office communication was returned to the Office.

Petitioner's arguments have been carefully considered and found convincing.

A review of the official application file reveals that the Office communication was, for reasons unknown to the Office, returned to the Office by the United States Postal Service, despite the fact that the Office communication was properly addressed to applicant. There is no indication in the official record that the an attempt was made by the Office to re-mail the Office communication.

Accordingly, Notice of Abandonment is **WITHDRAWN** and the holding of abandonment is hereby **VACATED**.

This application is being forwarded to the Office of Initial Patent Examination for re-mailing of the Office communication.

The time period for reply will be set in the new Office communication.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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.
60/419,884	10/18/2002	David Charles Schwartz	960296.99047

CONFIRMATION NO.

OC000000011638554

27114
QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

Date Mailed: 01/07/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/17/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,898.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE WI 53202-4497

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OFFICE OF PETITIONS

In re Application of
David C. Schwartz et al
Application No. 10/713,898
Filed: October 18, 2002
Attorney Docket No. 960296.99047

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 17, 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 **GRANTED**.

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

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

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on October 18, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of the Technology Center will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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John T. Pienkos
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202

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OFFICE OF PETITIONS

In re Application of	:	
Schwartz et al.	:	
Application No. 10/713,898	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 960296.99047	:	

This is a letter in response to the letter and copy of a previous petition under 37 CFR 1.78 filed on May 27, 2004.

The letter states a decision on the petition has not been received. However, a decision was mailed on May 26, 2004. The Office assumes the decision was eventually received but attaches a copy of the decision to ensure receipt by applicant.

If further assistance is required, please feel free to contact Petitions Attorney Steven Brantley at (703) 306-5683 prior to September 27, 2004, and (571) 272-3203 thereafter.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of May 26, 2004 decision

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/418,989	10/15/2002	David L. Hagen	VAST.001PR

CONFIRMATION NO.

OC000000011638884

Louis J. Knobbe
Knobbe, Martens, Olson & Bear, LLP
14th Floor
2040 Main Street
Irvine, CA 92614

Date Mailed: 01/07/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/12/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,899.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/423,860	11/05/2002	Richard C. Walton	02703-023PO1

CONFIRMATION NO.

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

OC000000011639197

Date Mailed: 01/08/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **11/05/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,900.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/504,317	09/17/2003	Alan Gillengerten	GDI-2001PV2

CONFIRMATION NO.

OC000000011672875

33931
LAW OFFICE OF HARRY J. MACEY
1301 SHOREWAY ROAD, SUITE 121
BELMONT, CA 94002-4106

Date Mailed: 01/12/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/06/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,901.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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3

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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.
60/401,238	08/06/2002	Sheng Ted Tai Tsao	

CONFIRMATION NO.

OC000000011638184

SHENG (TED) TAI TSAO
2979 HEIDI DRIVE
SAN JOSE, CA 95132

Date Mailed: 01/07/2004

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **07/22/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to Customer Service at (703) 308-1202.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Initial Patent Examination

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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.
60/401,238	08/06/2002	Sheng Ted Tai Tsao	

CONFIRMATION NO.

OC000000011730320

SHENG (TED) TAI TSAO
2979 HEIDI DRIVE
SAN JOSE, CA 95132

Date Mailed: 01/21/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on , to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,904.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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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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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/402,626	08/12/2002	Sheng Ted Tai Tsao	

CONFIRMATION NO.

SHENG TED TAI TSAO
2979 HEIDI DRIVE
SAN JOSE, CA 95132

OC000000010944017

Date Mailed: 09/29/2003

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **07/22/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

The fee, required by 37 CFR 1.17(i) of $130 was not received in full. Applicant must submit $ **80** to complete petition fee.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to Customer Service at (703) 308-1202.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Initial Patent Examination

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/402,626	08/12/2002	Sheng Ted Tai Tsao	

CONFIRMATION NO.

OC000000011730863

SHENG TED TAI TSAO
2979 HEIDI DRIVE
SAN JOSE, CA 95132

Date Mailed: 01/21/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on , to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,905.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10713905	08/12/02	SHENG TED TAI TSAO	

SHENG TAI (TED) TSAO
2979 HEIDI DRIVE
SAN JOSE, CA 95132

EXAMINER	
MIRZA ADNAN	
ART UNIT	PAPER NUMBER
2145	00
DATE MAILED:	01/25/08

NOTICE OF RESCINDED ABANDONMENT

☒ **In response to your communication filed** 03/06/2008

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above identified application. The Notice of Abandonment is hereby rescinded. The issue fee receipt will be mailed within six weeks.**

for Manager, Publishing Division
Office of Patent Publication
Anita Greene

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/439,889	01/14/2003	Jon Konkle	08140-105040(ART2020 PROV

CONFIRMATION NO.

OC000000011731286

20786
KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1763

Date Mailed: 01/21/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/14/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,906.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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#3

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/362,201	03/06/2002	Jerry L. Webb	

CONFIRMATION NO.

OC000000009691376

JERRY L. WEBB, JR.
205 BUSTER MYERS ROAD
LOUISVILLE, MS 39339

Date Mailed: 03/24/2003

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **03/03/2003,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to Customer Service at (703) 308-1202.

A copy of this notice MUST be returned with the reply.

JANICE L DIPPETT
Office of Initial Patent Examination

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/362,201	03/06/2002	Jerry L. Webb	

CONFIRMATION NO.

OC000000011839917

JERRY L. WEBB, JR.
205 BUSTER MYERS ROAD
LOUISVILLE, MS 39339

Date Mailed: 02/05/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on , to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,907.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIBBETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/441,268	01/21/2003	Steven D. Miller	NC.84,024

CONFIRMATION NO.

OC000000012047154

The U.S. Naval Research Laboratory
Office of the Associate Counsel (IP)
Code 1008.2
4555 Overlook Ave, SW
Washington, DC 20375

Date Mailed: 03/08/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/21/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,908.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/442,495	01/24/2003	Stefano Giuliano	60,126-213

CONFIRMATION NO.

OC000000012047436

Gregory D. DeGrazia
The Pinehurst Office Center
Suite #101
39400 North Woodward Avenue
Bloomfield Hills, MI 48304-5151

Date Mailed: 03/08/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/23/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,909.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/442,497	01/24/2003	Hans Jurgen Nolte	60,126-214

CONFIRMATION NO.

OC000000012077899

Gregory D. DeGrazia
Suite #101
The Pinehurst Office Center
39400 North Woodward Avenue
Bloomfield Hills, MI 48304-5151

Date Mailed: 03/11/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/23/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,910.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/442,497	01/24/2003	Hans Jurgen Nolte	60,126-214

CONFIRMATION NO.

OC000000012077899

Gregory D. DeGrazia
Suite #101
The Pinehurst Office Center
39400 North Woodward Avenue
Bloomfield Hills, MI 48304-5151

Date Mailed: 03/11/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/23/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,910.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/443,604	01/30/2003	Gregory Murphy	5838-03100

CONFIRMATION NO.

OC000000013322340

Eric B. Meyertons
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

Date Mailed: 07/23/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/30/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,911.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/467,593	05/02/2003	Dara Courtney Medes	

CONFIRMATION NO.

OC000000013321433

Dara Medes
#143
1440 Whalley Avenue
New Haven, CT 06515

Date Mailed: 07/23/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **04/30/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,912.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/484,546	07/01/2003	Michael L. Beigel	PREDYN-43968

CONFIRMATION NO.

OC000000012217143

26252
KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

Date Mailed: 03/29/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/08/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,913.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/484,545	07/01/2003	Michael L. Beigel	PREDYN-43970

CONFIRMATION NO.

OC000000012533877

26252
KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

Date Mailed: 05/05/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/08/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,914.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/484,606	07/01/2003	Michael L. Beigel	PREDYN-43971

CONFIRMATION NO.

OC000000012537975

26252
KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

Date Mailed: 05/05/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **01/08/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,915.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIBBETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/464,799	04/22/2003	Steven P. Plager	1291US

CONFIRMATION NO.

OC000000012613586

Graco Minnesota Inc.
P.O. Box 1441
Minneapolis, MN 55440-1441

Date Mailed: 05/12/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **04/21/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,916.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/461,172	04/08/2003	Joseph P. McGurk	END-875

CONFIRMATION NO.

OC000000012619517

Philip S. Johnson, Esq.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

Date Mailed: 05/12/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **03/18/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,917.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
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WOOD HERRON & EVANS LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application	:	
Joseph P. McGurk	:	
Application No. 10/713,917	:	DECISION ON APPLICATION
Filed: April 8, 2003	:	FOR PATENT TERM ADJUSTMENT
Docket No. MDXVA-21US	:	

This is a decision on the "Application for Patent Term Adjustment (37 CFR 1.705)" filed April 5, 2007. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred eleven (611) to two hundred sixty-six (266) 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 sixty-six (266) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 2, 2007, 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 was six hundred eleven (611) days.

The Office initially determined a patent term adjustment of six hundred eleven (611) days based on an adjustment for PTO delay of six hundred eleven (611) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0) days of applicant delay.

However, Applicant points out that he should have been assessed additional delay pursuant to 37 C.F.R. § 1.704(c)(5). 37 C.F.R. § 1.704(c)(5) states that converting an application from a provisional application to a nonprovisional application shall result in applicant day. Specifically, § 1.704(c)(5) states that:

> the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date the application was filed under 35 U.S.C. 111(b) and ending on the date a request in compliance with §1.53(c)(3) to convert the provisional application into a nonprovisional application was filed.

The application was filed as a provisional application on April 8, 2003. Applicant filed a request to convert to a nonprovisional application on March 18, 2004. Accordingly, pursuant to 37 C.F.R. 1.704(c)(5), three hundred forty-five (345) days of applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred sixty-six (266) days** (611 days of PTO delay, reduced by 345 days of applicant delay).

No fee has been charged. The Office thanks Applicant for his good faith and candor in bringing this matter to the Office's attention.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Sunday
Date: 9/30/2007

PALM INTRANET

Time: 10:03:00

PTA Calculations for Application: 10/713917			
Application Filing Date:	04/08/2003	PTO Delay (PTO):	611
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	266
PTO Delay Adjustment:	-345		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	09/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		345	
54	02/02/2007	MAIL NOTICE OF ALLOWANCE			
53	02/02/2007	MAIL EXAMINER'S AMENDMENT			
52	01/08/2007	ISSUE REVISION COMPLETED			
51	01/08/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	01/08/2007	EXAMINER'S AMENDMENT COMMUNICATION			
49	01/08/2007	NOTICE OF ALLOWABILITY			
48	02/01/2007	DATE FORWARDED TO EXAMINER			
47	02/01/2007	MAIL APPEALS CONF. REOPEN PROSEC.			
41	01/08/2007	APPEALS CONF. DECISION, REOPEN PROSEC.			
39	11/03/2006	REQUEST FOR APPEAL CONFERENCE FILED			
38	11/03/2006	NOTICE OF APPEAL FILED			
37	08/09/2006	MAIL NON-FINAL REJECTION			
36	08/07/2006	NON-FINAL REJECTION			
35	07/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	07/31/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	07/31/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
32	07/31/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
31	08/01/2006	DATE FORWARDED TO EXAMINER			
30	07/31/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
29	08/01/2006	DATE FORWARDED TO EXAMINER			
28	07/31/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			

27	08/01/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
26	06/05/2006	MAIL ADVISORY ACTION (PTOL - 303)			
25	05/30/2006	ADVISORY ACTION (PTOL-303)			
24	05/11/2006	DATE FORWARDED TO EXAMINER			
23	05/10/2006	AMENDMENT AFTER FINAL REJECTION			
22	05/05/2006	MAIL FINAL REJECTION (PTOL - 326)			
21	05/01/2006	FINAL REJECTION			
20	02/27/2006	DATE FORWARDED TO EXAMINER			
19	02/25/2006	RESPONSE AFTER NON-FINAL ACTION			
18	02/09/2006	MAIL NON-FINAL REJECTION	611		-1
17	02/06/2006	NON-FINAL REJECTION			
16	02/01/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	01/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	12/14/2005	PRELIMINARY AMENDMENT			
13	09/20/2004	REFERENCE CAPTURE ON IDS			
12	01/17/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
11	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/24/2004	APPLICATION DISPATCHED FROM OIPE			
9	08/25/2004	APPLICATION IS NOW COMPLETE			
8	05/12/2004	CORRESPONDENCE ADDRESS CHANGE			
7	05/12/2004	PRE_EXAM CONVERSION			
6	06/10/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
5	05/12/2004	APPLICATION RETURN TO OIPE			
4	06/09/2003	APPLICATION DISPATCHED FROM OIPE			
3	06/10/2003	APPLICATION IS NOW COMPLETE			
2	04/25/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/08/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/465,732	04/24/2003	Mitchell C. Ruda	516A 3417

CONFIRMATION NO.

OC000000013307921

Koda & Androlia
Suite 3850
2029 Century Park East
Los Angeles, CA 90067

Date Mailed: 07/22/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **04/26/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,919.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

PART 2 - OFFICE COPY

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/454,661	03/17/2003	Doug Kennon	BAC161

CONFIRMATION NO.

OC000000013321186

Edward J. Brosius
AMSTED Industries Incorporated
44th Floor
205 N. Michigan Avenue
Chicago, IL 60601

Date Mailed: 07/23/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **02/06/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,920.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIRPETT
Office of Initial Patent Examination
(703) 308-0910

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
60/468,969	05/09/2003	Gayle Darlene Eysenring Jenkins	

CONFIRMATION NO.

Gayle D. Eysenring Jenkins
10337 W. Cheryl Drive
Sun City, AZ 85351

OC000000013322589

Date Mailed: 07/23/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **05/01/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/713,922.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(703) 308-0910

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PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

~~In re~~ Application of Marian Morys et al Application No. ~~09/882,228~~ Filed: June 14, 2001 Attorney Docket No. 007420-0067-~~999~~	:	DECISION GRANTING PETITION
In re Application of Marian Morys et al Application No. 10/713,923 Filed: February 11, 2003 Attorney Docket No. 007420-0116-999	:	

This is a decision on the "Petition under 37 CFR 1.53(e) and 1.181(f)" filed by facsimile on February 25, 2003, requesting that a Continued Prosecution Application (CPA) request filed on February 11, 2003, based on prior application No. 09/882,228, be treated as a continuation application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of February 11, 2003. The delay in making this decision is regretted.

The petition states, in effect, that the application was inadvertently deposited as a CPA, and that the application papers that accompanied the CPA request were intended to be filed as a continuation application under 37 CFR 1.53(b). The February 11, 2003 CPA request and all accompanying papers have been located in the file of the prior application.

The request for a CPA based on prior application No. 09/882,228 was filed on February 11, 2003. However, the issue fee was paid in the prior application on November 26, 2002, and the application issued on February 11, 2003, as U.S. Patent No. 6,518,756.

Since the issue fee was paid before the CPA was filed, the CPA is improper. Also, since the prior application has issued as a patent, the CPA request cannot be processed as a proper CPA.

The CPA Request Transmittal (2 pages) was filed on February 11, 2003, while the prior application was still pending and was accompanied by a specification, drawings, an abstract page, a one page "Utility Patent Application Transmittal," and a copy of the declaration filed in the prior application. It is noted that the second page of the petition incorrectly states in bold capital letters that the specification and drawings were filed on February 24, 2003, after the prior application issued as U.S. Patent No. 6,518,756. The Office date stamp on the specification and drawings make it clear that the application papers were filed together with the CPA request on February 11, 2003, the day the prior application issued as a patent.

Petitioners state, in effect, that the application was mistakenly filed as a CPA under 37 CFR 1.53(d), when it was intended to be filed under 37 CFR 1.53(b). The present petition requests that

the application deposited as a CPA under 37 CFR 1.53(d) be treated as a continuation application filed under 37 CFR 1.53(b).

All of the continuation application papers filed on February 11, 2003 and a copy of the petition have been removed from the file of prior application No. 09/882,228 and have been assigned application No. 10/713,923. All future correspondence relating to the continuation application should be directed to this application, application No. 10/713,923.

The petition in application No. 10/713,923 is granted.

In application No. 10/713,923, the $130.00 petition fee is being charged to deposit account No. 16-1150 as authorized in the petition.

A $750.00 basic filing fee and a $130.00 surcharge set forth in 37 CFR 1.16(e) is required for the application No. 10/713,923.

Applicant is given **ONE MONTH** from the date of this decision to file in application No. 10/713,923: (1) the filing fee and surcharge required above, and (2) a proper benefit claim to prior application No.09/882,228, in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The required benefit claim may be in the form of an amendment adding the required reference to the prior application in the first sentence of the specification following the title, or by an application data sheet. See 37 CFR 1.78(a)(2)(iii). The response, including the filing fee, surcharge, and benefit claim should be directed to the attention of Initial Patent Examination Division.

The application papers assigned application No. 10/713,923 are being forwarded to the Office of Initial Patent Examination for further processing as a continuation application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of February 11, 2003, using the copy of the specification, drawings and declaration filed on that date.

Application No. 09/882,228 is being forwarded to the Files Repository.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Fred Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Marian Morys et al
Application No. 09/882,228
Filed: June 14, 2001
Attorney Docket No. 007420-0067-999

In re Application of
Marian Morys et al
Application No. 10/713,923
Filed: February 11, 2003
Attorney Docket No. 007420-0116-999

DECISION GRANTING PETITION

This is a decision on the "Petition under 37 CFR 1.53(e) and 1.181(f)" filed by facsimile on February 25, 2003, requesting that a Continued Prosecution Application (CPA) request filed on February 11, 2003, based on prior application No. 09/882,228, be treated as a continuation application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of February 11, 2003. The delay in making this decision is regretted.

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The CPA Request Transmittal (2 pages) was filed on February 11, 2003, while the prior application was still pending and was accompanied by a specification, drawings, an abstract page, a one page "Utility Patent Application Transmittal," and a copy of the declaration filed in the prior application. It is noted that the second page of the petition incorrectly states in bold capital letters that the specification and drawings were filed on February 24, 2003, after the prior application issued as U.S. Patent No. 6,518,756. The Office date stamp on the specification and drawings make it clear that the application papers were filed together with the CPA request on February 11, 2003, the day the prior application issued as a patent.

Petitioners state, in effect, that the application was mistakenly filed as a CPA under 37 CFR 1.53(d), when it was intended to be filed under 37 CFR 1.53(b). The present petition requests that

the application deposited as a CPA under 37 CFR 1.53(d) be treated as a continuation application filed under 37 CFR 1.53(b).

All of the continuation application papers filed on February 11, 2003 and a copy of the petition have been removed from the file of prior application No. 09/882,228 and have been assigned application No. 10/713,923. All future correspondence relating to the continuation application should be directed to this application, application No. 10/713,923.

The petition in application No. 10/713,923 is granted.

In application No. 10/713,923, the $130.00 petition fee is being charged to deposit account No. 16-1150 as authorized in the petition.

A $750.00 basic filing fee and a $130.00 surcharge set forth in 37 CFR 1.16(e) is required for the application No. 10/713,923.

Applicant is given **ONE MONTH** from the date of this decision to file in application No. 10/713,923: (1) the filing fee and surcharge required above, and (2) a proper benefit claim to prior application No.09/882,228, in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The required benefit claim may be in the form of an amendment adding the required reference to the prior application in the first sentence of the specification following the title, or by an application data sheet. See 37 CFR 1.78(a)(2)(iii). The response, including the filing fee, surcharge, and benefit claim should be directed to the attention of Initial Patent Examination Division.

The application papers assigned application No. 10/713,923 are being forwarded to the Office of Initial Patent Examination for further processing as a continuation application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of February 11, 2003, using the copy of the specification, drawings and declaration filed on that date.

Application No. 09/882,228 is being forwarded to the Files Repository.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Fred Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OIPE JC105 JUL 26 2004 PATENT & TRADEMARK OFFICE

Express Mail No. EV475140807US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Morys et al.	Confirmation No.:	To be assigned
Serial No.:	10/713,923	Art Unit:	To be assigned
Filed:	February 11, 2003	Examiner:	To be assigned
For:	SYSTEM AND METHOD OF DETERMINING MOTION TOOL PARAMETERS IN BOREHOLE LOGGING	Attorney Docket No:	7420-116-999 (406502-999115)

PRELIMINARY AMENDMENT

Attn.: Initial Patent Examination Division
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to a Decision Granting Petition Under 37 CFR 1.53(e) and 1.181(f) dated June 28, 2004 (copy of which is enclosed) in the above-identified application, applicants submit herewith the following amendments to the specification of the present application.

Applicants also authorize the U.S. Patent Office to charge the required basic filing fee of $750.00 and the surcharge of $130.00 and any other fee that may be required to Jones Day Deposit Account No. 503013. A copy of this sheet is enclosed.

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In re Application of
Marian Morys et al
Application No. 09/882,228
Filed: June 14, 2001
Attorney Docket No. 007420-0067-999

In re Application of
Marian Morys et al
Application No. 10/713,923
Filed: February 11, 2003
Attorney Docket No. 007420-0116-999

DECISION GRANTING
PETITION

07/29/2004 HLE333 00000057 503013 10713923
01 FC:1001 770.00 DA
02 FC:1051 130.00 DA

This is a decision on the "Petition under 37 CFR 1.53(e) and 1.181(f)" filed by facsimile on February 25, 2003, requesting that a Continued Prosecution Application (CPA) request filed on February 11, 2003, based on prior application No. 09/882,228, be treated as a continuation application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of February 11, 2003. The delay in making this decision is regretted.

The petition states, in effect, that the application was inadvertently deposited as a CPA, and that the application papers that accompanied the CPA request were intended to be filed as a continuation application under 37 CFR 1.53(b). The February 11, 2003 CPA request and all accompanying papers have been located in the file of the prior application.

The request for a CPA based on prior application No. 09/882,228 was filed on February 11, 2003. However, the issue fee was paid in the prior application on November 26, 2002, and the application issued on February 11, 2003, as U.S. Patent No. 6,518,756.

Since the issue fee was paid before the CPA was filed, the CPA is improper. Also, since the prior application has issued as a patent, the CPA request cannot be processed as a proper CPA.

The CPA Request Transmittal (2 pages) was filed on February 11, 2003, while the prior application was still pending and was accompanied by a specification, drawings, an abstract page, a one page "Utility Patent Application Transmittal," and a copy of the declaration filed in the prior application. It is noted that the second page of the petition incorrectly states in bold capital letters that the specification and drawings were filed on February 24, 2003, after the prior application issued as U.S. Patent No. 6,518,756. The Office date stamp on the specification and drawings make it clear that the application papers were filed together with the CPA request on February 11, 2003, the day the prior application issued as a patent.

Petitioners state, in effect, that the application was mistakenly filed as a CPA under 37 CFR 1.53(d), when it was intended to be filed under 37 CFR 1.53(b). The present petition requests that

the application deposited as a CPA under 37 CFR 1.53(d) be treated as a continuation application filed under 37 CFR 1.53(b).

All of the continuation application papers filed on February 11, 2003 and a copy of the petition have been removed from the file of prior application No. 09/882,228 and have been assigned application No. 10/713,923. All future correspondence relating to the continuation application should be directed to this application, application No. 10/713,923.

The petition in application No. 10/713,923 is granted.

In application No. 10/713,923, the $130.00 petition fee is being charged to deposit account No. 16-1150 as authorized in the petition.

A $750.00 basic filing fee and a $130.00 surcharge set forth in 37 CFR 1.16(e) is required for the application No. 10/713,923.

Applicant is given **ONE MONTH** from the date of this decision to file in application No. 10/713,923: (1) the filing fee and surcharge required above, and (2) a proper benefit claim to prior application No.09/882,228, in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The required benefit claim may be in the form of an amendment adding the required reference to the prior application in the first sentence of the specification following the title, or by an application data sheet. See 37 CFR 1.78(a)(2)(iii). The response, including the filing fee, surcharge, and benefit claim should be directed to the attention of Initial Patent Examination Division.

The application papers assigned application No. 10/713,923 are being forwarded to the Office of Initial Patent Examination for further processing as a continuation application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of February 11, 2003, using the copy of the specification, drawings and declaration filed on that date.

Application No. 09/882,228 is being forwarded to the Files Repository.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Fred Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

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In re Application of :
Kim, et al. :
Application No. 10/713,943 : DECISION
Filed/Deposited: 14 November, 2003 :
Attorney Docket No. 2013P125 :

This is a decision on the petition filed on 7 May, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

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

It appears that Petitioner's only alternative may be to file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that

guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 3 December, 2008, with reply due under a non-extendable deadline on or before 3 March, 2009.

The application went abandoned by operation of law after midnight 3 March, 2009.

The Office mailed the Notice of Abandonment on 31 March, 2009.

On 7 May, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, but failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring:

- a copy of the firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and;

- recitations as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

The guidance in the Commentary at MPEP 711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

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]

Petitioner is requested to review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and then seek to satisfy those requirements. Alternatively, Petitioner may file a petition to revive pursuant to the regulations at 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

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

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

---

1 *See*: MPEP §711.03(c) (I)(A).

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).

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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 regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 10/713,943 : DECISION
Filed/Deposited: 14 November, 2003 :
Attorney Docket No. 2013P125 :

This is a decision on the petition filed on 12 June, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

It is noted that Petitioner papers set forth a (general office) telephone number—408-720-8300— which Petitioner's papers indicate is located in Sunnyvale, CA. The Office attempted to contact Petitioner at that location/telephone, but was informed that Petitioner worked out of a Los Angeles, CA, office (310-207-3800). The Office next attempted to contact Petitioner at the Los Angeles location/telephone, but was informed that Petitioner worked out of a Costa Mesa office, and no telephone number was available. It isimportant that Petitioner's papers carry the necessary contact information to make possible contact with Petitioner when Petitioner's submissions raise questions that might be addressed upon consideration of those submissions.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

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

It appears that Petitioner's only alternative may be to file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 3 December, 2008, with reply due under a non-extendable deadline on or before 3 March, 2009.

The application went abandoned by operation of law after midnight 3 March, 2009.

The Office mailed the Notice of Abandonment on 31 March, 2009.

On 7 May, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, but failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring: a copy of the firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and; recitations as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I). Because Petitioner did not provide a copy of the docket sheet for the instant application and make express the statement set forth in the guidance in the Commentary at MPEP 711.03(c)(I), as set forth below, the petition was dismissed on 26 May, 2009.

On 12 June, 2009, Petitioner filed, *inter alia*, a re-advanced his petition pursuant to 37 C.F.R. §1.181, however, rather than address the specific and explicit and express statements to which Petitioner was directed (the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I)—i..e., "... Practitioner must state ..." (emphasis supplied)), Petitioner chose instead to lecture the Office.

That guidance was expressly set forth for Petitioner in the decision of 26 May, 2009, and the Office once again provides to Petitioner the express statement of the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
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> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
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> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1] (Emphasis supplied.)

***

On any renewed petition, Petitioner shall:

- make the statements as required and expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I)—as highlighted above for Petitioner's reference; and

- supplement his documentary showing by presentin a copy of the docket sheet or file jacket cover for the instant application.

Should Petitioner find it not possible to satisfy these requirements, Petitioner may alternatively chose to present a petition pursuant to 37 C.F.R. §1.137(b) with fee, reply (a copy of the 3 December, 2008, Notice of Allowance/Allowability is enclosed for Petitioner's ease of

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[1] *See*: MPEP §711.03(c) (I)(A).

reference), and statement of unintentional delay. (Applicants/Petitioners always are cautioned that the conditions of their failure to reply timely and properly to an Office action, including a decision on petition, may be considered *indicia* of intentional 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]

Petitioner is requested to review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and then seek to satisfy those requirements. Alternatively, Petitioner may file a petition to revive pursuant to the regulations at 37 C.F.R. §1.137(b).

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STATUTES, REGULATIONS

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

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

---

[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).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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P. O. Box 1450
Alexandria, VA 22313-1450

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401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:

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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

NOTICE OF ALLOWANCE AND FEE(S) DUE

8791 7590 12/03/2008

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

EXAMINER	
PATEL, KAUSHIKKUMAR M	
ART UNIT	PAPER NUMBER
2188	

DATE MAILED: 12/03/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,943	11/14/2003	Bong Wan Kim	2013P125	4798

TITLE OF INVENTION: APPARATUS AND METHOD FOR CONTROLLING MEMORY ALLOCATION FOR VARIABLE SIZE PACKETS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	03/03/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

8791 7590 12/03/2008

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

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,943	11/14/2003	Bong Wan Kim	2013P125	4798

TITLE OF INVENTION: APPARATUS AND METHOD FOR CONTROLLING MEMORY ALLOCATION FOR VARIABLE SIZE PACKETS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	03/03/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
PATEL, KAUSHIKKUMAR M	2188	711-202000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,943	11/14/2003	Bong Wan Kim	2013P125	4798

8791 7590 12/03/2008

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

EXAMINER	
PATEL, KAUSHIKKUMAR M	
ART UNIT	PAPER NUMBER
2188	

DATE MAILED: 12/03/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 345 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 345 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	10/713,943	KIM ET AL.	
	Examiner	Art Unit	
	Kaushikkumar Patel	2188	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *amendments filed on 9/9/2008*.

2. ☒ The allowed claim(s) is/are *1,2 and 4-19*.

3. ☒ 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 the:
      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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Hyung S. Sough/
Supervisory Patent Examiner, Art Unit 2188
11/24/08

Office Action Summary	Application No.	Applicant(s)	
	10/713,943	KIM ET AL.	
	Examiner	Art Unit	
	Kaushikkumar Patel	2188	

-- 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 ____ 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) _____ 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) _____ 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/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

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

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SEP 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 10/713,943 : DECISION
Filed/Deposited: 14 November, 2003 :
Attorney Docket No. 2013P125 :

This is a decision on the petition filed on 23 July, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 3 December, 2008, with reply due under a non-extendable deadline on or before 3 March, 2009.

The application went abandoned by operation of law after midnight 3 March, 2009.

The Office mailed the Notice of Abandonment on 31 March, 2009.

On 7 May, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, but failed to comply with the requirements expressly set forth in the

guidance in the Commentary at MPEP §711.03(c)(I) requiring: a copy of the firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and; recitations as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I). Because Petitioner did not provide a copy of the docket sheet for the instant application and make express the statement set forth in the guidance in the Commentary at MPEP 711.03(c)(I), as set forth below, the petition was dismissed on 26 May, 2009.

On 12 June, 2009, Petitioner re-advanced his petition pursuant to 37 C.F.R. §1.181, however, rather than address the specific and explicit and express statements to which Petitioner was directed (the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), Petitioner chose instead to lecture the Office. The petition was dismissed on 22 June, 2009.

On 23 July, 2009, Petitioner sought reconsideration of his petition and presented copies of the docket sheet for the application and the due date calendar for the firm, and further made statements of, *inter alia*, non-receipt at the correspondence address of record, search and non-discovery, description of the docketing system and as to its sufficient reliability—all consistent with satisfying the showing required as set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence

such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1] (Emphasis supplied.)

***

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]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And 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.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 31 March, 2009, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2188 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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8-14-06

wk

In re Application of	:	
Doug Gettman	:	
Serial Number: 10/713,944	:	DECISION
Filed: November 14, 2003	:	ON
For: MOBILE FIELD ELECTRICAL SUPPLY	:	PETITION

This is in response to the request filed June 7, 2006, requesting permission for withdrawal as attorney from the above-identified application.

The Commissioner of Patents and Trademarks requires that there be at least 30 days between approval of 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). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In this case there is less than thirty days between approval of withdrawal of the current attorney of record and the expiration date of a time response period.

The Request is **Denied**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Bruce E. Black, Ph.D.
DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

UNITED STATES PATENT AND TRADEMARK OFFICE

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

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SEP 1 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Osada	:	
Application No. 10/713,955	:	ON PETITION
Filed: November 14, 2003	:	
Attorney Docket No. 4594	:	

This is a decision on the petition, filed September 15, 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 17, 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) 305-8859.

The examiner of Technology Center AU 2839 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No.

FASSE PATENT ATTORNEYS, P.A.
P. O. Box 726
HAMPDEN, ME 04444-0726

DEC - 1 2004

In re Application of:
Tsuyoshi Osada
Serial No.: 10/713,955
Filed: November 14, 2003
Attorney Docket No.: 4594

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed September 27, 2004, are hereby vacated.

The application is being withdrawn in accordance with Applicant's request for suspension of prosecution under 37 CFR 1.103(c). The period of suspension continues to run three months from September 15, 2004 request date.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to T. C. Patel at (571) 272-2098.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
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ANTHONY EDW. J CAMPBELL
PO BOX 160370
AUSTIN, TX 78716

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
ARMSTRONG	:	
Application No.: 10/713,966	:	DECISION ON PETITION
Filing Date: November 14, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: OWA236	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed August 19, 2005, which set a one month period for response. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained.

Accordingly, the above-identified application became abandoned on September 20, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed August 19, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2859 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/713,980	11/14/2003	Brian D. Swander	14917.0474US01	3167

27488 7590 07/30/2009

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
PALIWAL, YOGESH	
ART UNIT	PAPER NUMBER
2435	

MAIL DATE	DELIVERY MODE
07/30/2009	PAPER

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

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

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0093

In re Application of:
Brian Swander et al.
Appl. No.: 10/713,980
Filed: November 14, 2003
For: METHOD OF NEGOCIATING SECURITY PARAMETERS AND AUTHENTICATING USERS INTERCONNECTED TO A NETWORK

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the renewed petition under 37 CFR § 1.59(b), filed on July 9, 2009 to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the information listed in Exhibit A, submitted on December 11, 2007, be expunged and removed from the official file for the above-identified application. Petitioner states that the materials are proprietary subject to a legal obligation in: Commission of European Communities vs. Microsoft, Case No. COMP/C-3/37792 (hereafter, "Litigation"); and the Materials have not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to the applicant.

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612. A second point of Contact is Kim Huynh at (571)-272-4147.

/Kim Huynh/

Kim Huynh, WQAS 2440/50
Technology Center 2400
Computer Security, Architecture and Software

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Laurence R. Letson
P.O. Box 910567
Lexington, KY 40591

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Thomas E. Walker :
Application No. 10/713,987 :
Filed: November 14, 2003 :
Attorney Docket Number: :
LK9-03-001 : ON PETITION

This is a decision on the petitions filed alternatively under 37 CFR §§ 1.181, 137(a), and 137(b), filed June 22, 2005.

The Petition under 37 CFR 1.181 is hereby **dismissed**.

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

The Petition under 37 CFR 1.137(b) is being **held in abeyance**.

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

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action mailed July 2, 2004. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on October 3, 2004. A Notice of Abandonment was mailed March 25, 2005.

Applicant files the instant petition wherein Applicant avers that he did not receive the Notice.

Applicant is advised that an allegation that an Office action was not received may form the basis for revival of an application based upon unavoidable abandonment. If the allegation is adequately supported, the petition may be granted

and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

Accordingly, Applicant's assertion, that the Office action was not received, is insufficient to justify granting of the petition. Applicant must also provide a copy of the docket record (or file jacket) where the non-received Office action would have been entered had it been received and docketed.

As such, the petitions under 37 CFR 1.181 and 37 CFR 1.137(a) are dismissed.

Applicant should file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

A decision on the petition under 37 CFR 1.137(b) will be held in abeyance pending Applicant's response to this Decision.

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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Laurence R. Letson
P.O. Box 910567
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AUG 18 2005

OFFICE OF PETITIONS

In re Application of :
Thomas E. Walker :
Application No. 10/713,987 :
Filed: November 14, 2003 :
Attorney Docket Number: :
LK9-03-001 : ON PETITION

This is a decision on the Renewed Petition under 37 CFR § 1.137, filed August 4, 2004, and on the petition under 37 CFR 1.137(b), filed June 22, 2005.

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

The Petition under 37 CFR 1.137(b) is **dismissed as moot**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action mailed July 2, 2004. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on October 3, 2004. A Notice of Abandonment was mailed March 25, 2005.

Petitions filed alternatively under 37 CFR §§ 1.181, and 137(a), filed on June 22, 2005, were dismissed by this Office in a Decision mailed on July 28, 2005, for failing to meet the requirements of a grantable petition. A decision on an alternative petition under 37 CFR 1.137(b) was held in abeyance. pending the instqant request for reconsideration under 37 CFR 1.137(a).

With the instant petition, Petitioner has provided the necessary statements and copies of the docket record where the non-received Notice would have been entered had it been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

In view of the above, the petition under 37 CFR 1.137(a) is granted, the petition under 37 CFR 1.137(b) is dismissed as moot.

The Notice of Abandonment is hereby withdrawn.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/08/06

TO SPE OF : ART UNIT 2632

SUBJECT : Request for Certificate of Correction on Patent No.: 10/713995 6982654

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

Change to claim 20 does not affect the scope of the claim.

DANIEL WU
SUPERVISORY PATENT EXAMINER

SPE — 2612 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARSHALL GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S WACKER DRIVE
CHICAGO IL 60606

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Chantal Jubinville, Arthur S. Robb, :
Leonard J. Barri : DECISION REFUSING
Application No. 10/714,019 : STATUS UNDER § 1.47(a)
Filing Date: November 14, 2003 :
Attorney Docket No. 20339.12 :

This is in response to the "PETITION TO FILE ON BEHALF OF A NON-SIGNING INVENTOR UNDER 37 CFR §1.47(a)," filed April 19, 2004.

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

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

The above-identified application was filed on November 14, 2003, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on February 11, 2004. This Notice set an extendable period for

reply of two months. On April 19, 2004, applicants filed the instant petition, made timely by obtaining a one month extension of time.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because it does not contain the residence and post office address of the non-signing inventor.

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

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The change of correspondence address and power of attorney will be entered at such time as the person signing the instant petition files a grantable petition under 37 CFR 1.47(a).

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

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

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

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Arnall Golden Gregory LLP
1201 West Peachtree Street
Suite 2800
Atlanta GA 30309-3450

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P.O. Box 1450
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BRYAN W BOCKHOP ESQ
ARNALL GOLDEN GREGORY LLP
2800 ONE ATLANTA CENTER
1201 WEST PEACHTREE ST
ATLANTA GA 30309-3450

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JUL 06 2004

OFFICE OF PETITIONS

In re Application of :
Chantal Jubinville, Arthur S. Robb, :
Leonard J. Barri : DECISION ACCORDING
Application No. 10/714,019 : STATUS UNDER § 1.47(a)
Filing Date: November 14, 2003 :
Attorney Docket No. 20339.12 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR §1.47(a)," filed June 17, 2004.

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

The above-identified application was filed on November 14, 2003, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on February 11, 2004. This Notice set an extendable period for reply of two months. On April 19, 2004, applicants filed a petition under 37 CFR 1.47(a), made timely by obtaining a one month extension of time. However, this petition was dismissed in a decision mailed on June 8, 2004, because applicants did not submit a declaration in compliance with 37 CFR 1.63. The declaration was not acceptable because it did not contain the residence and post office address of the nonsigning inventor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On renewed petition, applicants have submitted a declaration in compliance with 37 CFR 1.63.

In view thereof, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 3713 for docketing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

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FEB 10 2009

OFFICE OF PETITIONS

In re Application of :
John J. Duigenan et al :
Application No. 10/714,049 : ON PETITION
Filed: November 13, 2003 :
Attorney Docket No. GB920030046US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 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 February 28, 2008.

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

This matter is being referred to Technology Center AU 2163 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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3M INNOVATIVE PROPERTIES
COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Karl E. Benson et al :
Application No. 10/714,053 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 59068US002 :

This is a decision on the petition, filed May 31, 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 14, 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 1626 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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PO BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Karl E. Benson et al :
Application No. 10/714,053 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 59068US002 :

This is a decision on the petition filed October 16, 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 June 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 12, 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; (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

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Alexandria, VA 22313-1450
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MAR 18 2004

BRET E. FIELD
BOZICEVIC, FIELD & FRANCIS, LLP
200 MIDDLEFIELD ROAD, SUITE 200
MENLO PARK, CA 94025

In re Application of	:
Richard L. Weiner et al	:
Serial No.: 10/714,067	: STATUS LETTER
Filed: November 14, 2003	:
Attorney Docket No.: UCSF-264CON2	:

This is in response to applicants' attorneys' request, filed February 27, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

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KATE H. MURASHIGE
MORRISON & FOERSTER
3811 VALLEY CENTRE DRIVE, SUITE 500
SAN DIEGO, CA 92130-2332

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Meng Yang et al
Application No. 10/714,068
Filed: November 14, 2003
Attorney Docket No.

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 (703) 305-9285.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mayer Fortkort & Williams
2nd Floor
251 North Avenue West
Westfield, NJ 07090

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NOV 25 2008

In re Application of	:	
John Dobak et al.	:	
Application No.10/714,070	:	DECISION ON PETITION
Filed: November 14, 2003	:	
Attorney Docket No. 010007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 01, 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 02, 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 $810, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3739 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

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MAYER FORTKORT & WILLIAMS
2ND FLOOR
251 NORTH AVENUE WEST
WESTFIELD NJ 07090

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Dobak, III et al. :
Application No. 10/714,070 :
Filed: November 14, 2003 :
Attorney Docket No. 010007 :

DECISION ON PETITION
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 29, 2009.

The request is **NOT APPROVED**.

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.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is an outstanding Office action mailed December 16, 2008 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

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MAY 13 2008

OFFICE OF PETITIONS

In re Application of :
CORREALE et al. : DECISION ON PETITION
Application No. 10/714,105 :
Filed: 11/14/2003 :
Attorney Docket No. RPS920030130US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on October 17, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on January 18, 2008. A Notice of Abandonment was mailed on February 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 payment of the issue fee and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 16 2005

In re Application of	:	
Roger W. Hickey	:	NOTICE OF WITHDRAWAL
Serial No. 10/714,107	:	FROM ISSUE
Filed: November 14, 2003	:	UNDER 37 CFR 1.313(b)
For: EXTREME SPORTS RAMP SYSTEM	:	

The above-identified application is hereby withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

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 Derris Banks, Acting SPE, Art Unit 3714 at (571) 272-4419. The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

E. R. Kazenske, Director
Technology Center 3700

Curtis L. Harrington
6300 State University Dr., Suite 250
Long Beach, CA 90815

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ST. JOSEPH MI 49085

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MAY 20 2010

OFFICE OF PETITIONS

In re Application of
Clemens Jung et al.
Application No. 10/714,110
Filed: November 14, 2003
Attorney Docket Number: IT20030039

ON PETITION

This is a decision on the petition, filed March 30, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned March 9, 2010 for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 7, 2009 which set a three month statutory period for response. Accordingly, the Notice of Abandonment was mailed March 22, 2010.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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OFFICE OF PETITIONS

WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

In re Patent No. 7,060,063 :
Issued: June 13, 2006 :
Application No. 10/714,126 : NOTICE
Filed: November 13, 2003 :
Atty Docket No. 032,290-068 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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GLORIA PFISTER
GALILEO PHARMACEUTICALS, INC.
5301 PATRICK HENRY DR.
SANTA CLARA, CA 95054

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Sekhar Boddupalli et al :
Application No. 10/714,152 : ON PETITION
Filed: November 13, 2003 :
Attorney Docket No. 0113-UTL2 :

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 3, 2007 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 May 4, 2007.

The Change of Address received with the petition on November 18, 2008 is not accepted. The Change of Address is sign by Byron V. Olsen. Office record does not show Byron V. Olsen listed as the Attorney or agent of record. A courtesy copy of this decision is being mailed to Customer Number 76656.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. This matter is being referred to Technology Center AU 1616 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Patent Docket Department
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, MO 63102-2740

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

Mail Date: 04/21/2010

Applicant	: J. Christopher Flaherty	: DECISION ON REQUEST FOR
Patent Number	: 7637870	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/714,155	: 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 **624** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BORGWARNER INC.
3850 HAMLIN ROAD
AUBURN HILLS MI 48326

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SEP 1 2 2005

OFFICE OF PETITIONS

In re Application of
Gardner et al.
Patent No. 6,883,481
Application Number: 10/714,159
Issue Date : April 26, 2005
Filing Date: November 14, 2003
Attorney Docket Number: BW-DKT01013B

DECISION ON PETITION

This is a decision on the petition for certificate of correction under 37 CFR 1.323 filed on March 14, 2005. The petition is properly treated under 37 CFR 3.81 (b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Dismissed**.

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

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11

before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(I)

Petitioner has failed to establish (A). Petitioner states the name of the assignee "Borgwarner Inc" was incorrectly printed on the patent. The correct name is "BorgWarner Inc". However, the spelling of the assignee's name on the patent agrees with the Office PALM computer database assignment records at the time of the issuance of the patent. Unless petitioner can establish the assignee's name was improperly recorded due to Office mistake, a correction of the assignee's name is not in order.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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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SEP 0 1 2004

TECHNOLOGY CENTER 3600

Robert A. Green
17 Hampton Court
Marlboro, NJ 07746

In re application of : **DECISION ON PETITION**
George Legendziewicz : **TO MAKE SPECIAL**
Application No. 10/714,160 : **(ACCELERATED**
Filed: November 13, 2003 : **EXAMINATION)**
For: FISHING ROD HOLDER SUPPORT :
STANCHION MEMBER FOR HOLDING
MULTIPLE FISHING ROD HOLDERS IN COMBINATION
WITH A FLUSH MOUNTED ROD HOLDER

This is in response to the petition filed on November 14, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

SNM/vdb: 8/19/04

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Atsuhiro Sakurai	: DECISION ON REQUEST FOR
Patent Number	: 7580761	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/714,175	: 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 **1682** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
1250 SOUTH CAPITAL OF TEXAS HIGHWAY
BUILDING THREE, SUITE 610
AUSTIN, TX 78746

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Delbert Tesar	:	DECISION ON PETITION
Application No. 10/714,183	:	
Filed: 14 November, 2003	:	
Atty Docket No. 126928-1000	:	

This is a decision on the petition filed on 13 May, 2005 (certificate of mailing date 9 May, 2005), under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

The petition is **dismissed**.

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

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

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

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

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

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

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

The application became abandoned on 13 October, 2004, for failure to timely file a response to the non-final Office action mailed on 12 July, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Petitioner attempted to file a timely amendment with an extension of time on 18 January, 2005 (certificate of mailing date 12 January, 2005), but the extension of time fee was insufficient. Notice of Abandonment was mailed on 22 February, 2005.

Petitioner asserts that the amendment filed on 18 January, 2005, was timely and included a proper three (3) month extension of time.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that a proper reply to the non-final Office action mailed on 12 July, 2004, including a three (3) month extension of time, was properly filed on 18 January, 2005. Petitioners state that a copy of the credit card authorization form is included with the petition.

A review of the papers included with the present petition reveals that no copy of a credit card form is enclosed. A review of Office financial records, however, reveals that the Credit Card Payment Form filed by petitioner on 18 January, 2005, authorized the Office to charge counsel's credit card for $490.00, not $510.00.

The Office notes that the extension of time fee was charged in the amount due effective 1 October, 2004, through 8 December, 2004 (*i.e.*, $490.00). On 8 December, 2004, however, the small entity fee for a three (3) month extension of time was increased to $510.00. As 37 CFR 1.23(b) requires that the amount of a fee paid by credit card must be specified, and that a general authorization to charge fees is not acceptable.

> 37 CFR 1.23 states, in pertinent part:
>
> (b) Payments of money required for United States Patent and Trademark Office fees may also be made by credit card. Payment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and

> is subject to collection of the fee. The Office will not accept a general authorization to charge fees to a credit card. If credit card information is provided on a form or document other than a form provided by the Office for the payment of fees by credit card, the Office will not be liable if the credit card number becomes public knowledge.

As such, the showing of record is that petitioner inadvertently provided the wrong amount to be charged for the extension of time fee. As such, this constitutes an error on the part of petitioner rather than the USPTO, and, since the extension of time fee was not paid in the proper amount, the holding of abandonment will not be withdrawn.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] 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.[3]

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[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally,

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

As stated above, the showing of record is that petitioner submitted a credit card payment which was not in the correct amount. As stated above, credit card payments to the Office must specify the exact amount to be charged, and a general authorization to charge all fees to a credit card will not be accepted.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[6] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[7]

---

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).

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

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

[6] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[7] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

As such, petitioner did not file a timely amendment and extension of time. The showing of record does not rise to the level of unavoidable delay, and the petition will therefore be dismissed.

ALTERNATIVE VENUE

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

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

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

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

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

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

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

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time fees submitted with the present petition were filed subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded by Treasury Check.

The duplicate petition fee and extension of time fees submitted with the petition will be refunded by Treasury Check.

Receipt of the revocation and new power of attorney is acknowledged. All correspondence will be sent to the new address of record.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement
Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
1250 SOUTH CAPITAL OF TEXAS HIGHWAY
BUILDING THREE, SUITE 610
AUSTIN, TX 78746

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Delbert Tesar	:	DECISION ON PETITION
Application No. 10/714,183	:	
Filed: 14 November, 2003	:	
Atty Docket No. 126928-1000	:	

This is a decision on the petition filed on 7 April, 2005, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 13 October, 2004, for failure to timely file a response to the non-final Office action mailed on 12 July, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Petitioner attempted to file a timely amendment with an extension of time on 18 January, 2005

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

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

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

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

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

(certificate of mailing date 12 January, 2005), but the extension of time fee was insufficient. Notice of Abandonment was mailed on 22 February, 2005. The petition filed on 13 May, 2005, was dismissed on 23 May, 2005.

The present petition styled under 37 CFR 1.137(b has not been signed. However, registered patent attorney William N. Hulsey, III's name has been printed in the space for a signature on the Certificate of Mailing or Transmission (37 CFR 1.8(a)) on the petition form. Since the Certificate of Mailing on the petition form has been signed by petitioner's counsel, the petition will be considered to be ratified by the signature on the Certificate of Mailing or Transmission.

Petitioner has included an IDS as the required reply. Additionally it is noted that an untimely amendment was previously filed as a reply.

The application is being referred to Technology Center Art Unit 3681 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUILDING THREE, SUITE 610
AUSTIN TX 78746

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OFFICE OF PETITIONS

In re Application of	:	
Delbert Tesar	:	
Application No. 10/714,183	:	DECISION ON PETITION
Filed: 14 November, 2003	:	
For: STANDARDIZED ROTARY ACTUATOR	:	

This is a decision on the petition filed on 13 February, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 November, 2005, for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Issue Fee Due mailed on 4 August, 2005. Notice of Abandonment was mailed on 27 January, 2006.

---

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

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

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

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

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

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

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

Douglas I. Wood
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

07/30/04

Wayne M. Kennard
Hale and Dorr LLP
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/714190 received on 01/26/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 05/20/2010

Applicant	: Cosmin Dini	: DECISION ON REQUEST FOR
Patent Number	: 7620714	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/714,192	: 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 **1350** 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

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

COPY MAILED

FEB 15 2005

OFFICE OF PETITIONS

In re Application of
Joffre B. Baker, Maureen T. Cronin, Steve Shak, and Jose Baselga
Application No. 10/714,195
Filed: November 14, 2003
Attorney Docket No.: 39740-0005A
Title: GENE EXPRESSION PROFILING OF EGFR POSITIVE CANCER

DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is a decision on the petition under 37 CFR § 1.47(a)[1], filed September 21, 2004, to revive the above-identified application, and to accept the declaration without the signature of joint inventor Baselga.

The above-identified application was filed on November 14, 2003, identifying Joffre B. Baker, Maureen T. Cronin, Steve Shak, and Jose Baselga as joint inventors. On February 24, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

---

2 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1:16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The declaration was not executed.

With the instant petition, Petitioner has filed a declaration which has been executed by each of the joint inventors save Mr. Baselga. Petitioner has further included two statements of facts, a copy of a letter, a copy of an e-mail, a confirmation receipt from federal express, the petition fee, the surcharge, and a five-month extension of time to make timely this response.

Petitioner has met requirements (1) – (2) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing inventor[3].

Regarding the fourth requirement above, it is not clear if the non-signing inventor actually received the above-mentioned papers. The declaration of facts asserts that a copy of the application was sent to the work address of the non-signing inventor, which is given as "Vall d'Hebron University Hospital, Pg. Vall d'Hebron, 119-129, Barcelona, 08035, Spain." The correspondence described above is not sufficient to make the necessary showing that the non-signing inventor was ever presented with a copy of the application and a declaration, for the Office requires these materials to be sent to the residence of the inventor, as that is most likely the location where he might receive mail. Unfortunately, it is not clear where precisely this address is, since no last known address was revealed. It is noted that the declaration lists a post office address of Ganduxer 119, Barcelona, 08022, Spain.

Furthermore, the Federal Express tracking report establishes that the package was received by one S. Ello. It is not clear who this individual is, and it has not been established that this individual delivered the package to the non-signing inventor. What is clear is that the non-signing inventor did not receive the package directly from Federal Express.

As it is not clear if the non-signing inventor ever received the materials, it follows that one cannot refuse to sign something which one has not seen

If the non-signing inventor normally received correspondence at work, then a statement to this effect should be supplied by one having firsthand knowledge of this. If the declaration is to be believed, the papers will need to be delivered to the residential address, as this is the location where the non-signing inventor customarily receives mail.

Regarding item (5) above, Depending on the resolution of item (4) above, a new declaration may need to be submitted – if the non-signing inventor normally receives his mail at work, his work address should be listed on the declaration along with his residential address, and the new declaration will be required to reflect this.

Consequently, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

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

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3 See MPEP 409.03(e).

"Renewed Petition Under 37 CFR 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

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

Paul Shanoski

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

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

5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

6 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of fs the facsimile to the undersigned, which could be as much as one month.

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Paper No. None

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

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Joffre B. Baker, Maureen T. Cronin, Steve Shak, and Jose Baselga
Application No. 10/714,195
Filed: November 14, 2003
Attorney Docket No.: 39740-0005A
Title: GENE EXPRESSION PROFILING OF EGFR POSITIVE CANCER

DECISION NOTING JOINDER AND DISMISSING RENEWED PETITION UNDER 37 C.F.R. §1.47(A) AS MOOT

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed April 15, 2005.

The above-identified application was filed on November 14, 2003, identifying Joffre B. Baker, Maureen T. Cronin, Steve Shak, and Jose Baselga as joint inventors. On February 24, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The declaration was not executed.

The original petition was filed on September 21, 2004, and was dismissed via the mailing of a decision on February 15, 2005, for failure to meet requirements (3) – (5) above.

With this renewed petition, a declaration has been submitted which has been executed by the formerly non-signing joint inventor.

As such, the renewed petition is **DISMISSED AS MOOT**.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

The application file is being returned to Technology Center 1600 for further processing.

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/714,214	11/14/2003	1763	856	5308-223CT	9	7	4

CONFIRMATION NO. 2561

CORRECTED FILING RECEIPT

OC000000012488605

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

Date Mailed: 04/29/2004

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

Applicant(s)

Joseph John Sumakeris, Apex, NC;
Michael James Paisley, Garner, NC;

Domestic Priority data as claimed by applicant

This application is a CON of 10/017,492 10/30/2001

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

Title

Induction heating devices and methods for controllably heating an article

Preliminary Class

118

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

GRANTED

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

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

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

NOT GRANTED

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

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

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MAY 25 2004

OFFICE OF PETITIONS

In re Application of :
Sumakeris et al. :
Application No. 10/714,214 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 5308-223CT :

This is a decision on the petition filed March 4, 2004, to accord the above-identified application a filing date of November 14, 2003, instead of November 17, 2003.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of November 14, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/714,216	11/14/2003	2615	770	15270US01	4	20	3

CONFIRMATION NO. 2560

CORRECTED FILING RECEIPT

OC000000012158124

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

Date Mailed: 03/23/2004

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)

Mallinath Hatti, Bangalore, INDIA;
Lakshmanan Ramakrishnan, Bangalore, INDIA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/11/2004

Projected Publication Date: 05/19/2005

Non-Publication Request: No

Early Publication Request: No

Title

Last frame repeat

Preliminary Class

386

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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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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OCT 17 2007

OFFICE OF PETITIONS

KIMBERLY A. CHASTEEN
PO BOX 1243
YORKTOWN, VA 23692

In re Application of :
Sam-Shajing Sun :
Application No. 10/714,230 : DECISION ON PETITION
Filed: November 14, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 036021.0001 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 19, 2007,[1] to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed Provisional Application No. 60/426,108.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of M. Bruce Harper appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Harper desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED.**

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

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

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

[1] A duplicate petition was filed on June 26, 2007, along with the reference required by 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i).

nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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

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

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

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

The application is being forwarded to Technology Center AU 1795 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: MAURICE HARPER
WILLIAMS MULLEN
222 CENTRAL PARK AVENUE, SUITE 1700
VIRGINIA BEACH, VA 23462

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	TOT CLMS	IND CLMS
10/714,230	11/14/2003	1795	394	036021.0001	21	3

CONFIRMATION NO. 2469

22467
Kimberly A. Chasteen
PO Box 1243
Yorktown, VA 23692

CORRECTED FILING RECEIPT

OC000000026266040

Date Mailed: 10/12/2007

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

Applicant(s)

Sam-Shajing Sun, Chesapeake, VA;

Power of Attorney: The patent practitioners associated with Customer Number **22467**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/426,108 11/14/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/714,230

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Photovoltaic devices based on a novel block copolymer

Preliminary Class

136

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-06

Paper No:__

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

MICHAEL D. GARNER JR.
119 CRAB APPLE ROAD
HUNTSVILLE AL 35811

In re Application of :
Garner :
Application No. 10/714,241 :
Filing Date: 13 November, 2003 :
Attorney Docket No.: (None) :

DECISION

This is a revised decision on the petition filed on 17 February, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(It appears that Petitioner's only alternative herein is to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

(3) Petitioner's submissions suggest a lack of familiarity with petitions practice before the Office. Petitioner may wish to seek the guidance of a registered to practice before the Office, which information may be found at www.uspto.gov. Petitioner may also find there extensive commentary on the prosecution of an application in the form of the Manual of Patent Examining Procedure (MPEP).

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 10 December, 2004, with reply due absent extension of time on or before 10 March, 2005;
- on 2 March, 2005, Petitioner filed a paper, entitled: "Claims" and comprised of two (2) pages, however, on 8 July, 2005, the Office mailed a Notice of Non-Compliant Amendment and set a one- (1-) month period of response;[2]
- it was Petitioner's failure to reply timely and properly to the 8 July, 2005, which then resulted in the application going abandoned after midnight 8 August, 2005;
- Petitioner submitted additional papers on 24 August, 2005, however, as noted above, the application already had gone abandoned;
- the Office mailed the Notice of Abandonment on 31 January, 2006;
- on 17 February, 2006, Petitioner filed a the instant paper (considered as a petition under 37 C.F.R. §1.181, inter alia, because Petitioner has failed to submit the petition with any fee), and with the allegation that he has been in contact with the Examiner (documented by the Examiner's Interview Summary) and that Petitioner had responded to the office action.

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[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

[2] This Notice incorrectly reflects the receipt date of the filing as "04-02-05" (emphasis added), rather than the correct receipt date of 2 March, 2005.

Petitioner is reminded that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]). Moreover, Petitioner must be responsive within the time limits set out by the Office in Office actions because these time periods are statutorily set by Congress and cannot be altered by the Office.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not

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[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

> * * *
>
> **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

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

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

holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

Thus, Petitioner appears not to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

It is very clear in this matter that Petitioner's only alternative to irretrievable abandonment may be petition alleging unintentional delay under 37 C.F.R. §1.137(b).[11]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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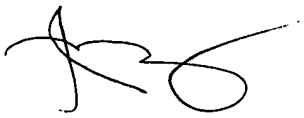
[11] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[12] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[13] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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



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

Encl. 10 December, 2004, and 8 July, 2005, Office actions
Form: Petition under 37 C.F.R. §1.137(b)

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

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

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

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

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

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

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

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

_____	_____
Date	Signature
	_____
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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.
10/714,241	11/13/2003	Michael Darnell Garner		2449

7590 07/08/2005

Michael D. Garner Jr.
119 Crab Apple Road
Huntsville, AL 35811

EXAMINER	
NORMAN, MARC E	

ART UNIT	PAPER NUMBER
3744	

DATE MAILED: 07/08/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

10/714241

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

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 4-2-05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

THE FOLLOWING CHECKED (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 _____

☐ 3. Amendments to the drawings: _____

☒ 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 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☒ E. Other: Need original Candt.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and **this ONE MONTH time limit is not extendable.**

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION (including a submission for an RCE)**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Tamara Hudson (571) 272-4355

Legal Instruments Examiner (LIE) Telephone No.

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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10/714241

NOTICE REQUIRING EXTENSION OF TIME FEE

No New Time Period is Provided

Applicant's reply to the Office Action mailed on 12-10-04 was received in the Office on 4-2-05, which is after the expiration of the period for reply set in the Office action. The time period for reply continues to run from the mailing date of the Office action. This application will become ABANDONED unless applicant obtains an extension of time by filing a petition under 37 CFR 1.136(a) accompanied by the appropriate fee as set forth in 37 CFR 1.17(a)(1)-(5) within the maximum extendable time period for reply (*e.g.*, six months for a reply to a non-final rejection).

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 due. The expiration of the time period is determined by the amount of the fee paid. In no case may an applicant reply later than the maximum period of SIX (6) MONTHS statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action.

- [X] 1. The appropriate extension of time fee is missing.
- [ ] 2. The extension of time fee submitted is insufficient.
- [ ] 3. The funds in Deposit Account No. _____ are insufficient to cover the entire fee due. The balance is due within the time period set forth in this notice. See note below regarding the appropriate service charge.
- [ ] 4. The Credit Card payment to cover the entire fee due to Account _____ **(Card type + last 4 digits ONLY)** was refused. The balance is due within the time period set forth in this notice. See note below regarding the appropriate service charge.
- [X] 5. Other.

Explanation (*Provide specific details of the required correction in order to assist the applicant. Indicate whether a service charge has been added to the fee due*): Need deposit account to charge for appropriate months for ext. of time.

THE AMOUNT OF THE FEE(S) DUE IS SUBJECT TO CHANGE, GENERALLY ON OCTOBER 1 OF EACH YEAR (37 CFR 1.17 & 1.21). THE **AMOUNT OF THE FEE(S) DUE IS DETERMINED AS OF THE DATE A COMPLETE REPLY WITH THE APPROPRIATE FEE(S) IS RECEIVED BY THE OFFICE** (37 CFR 1.8 & 1.10). BECAUSE THE AMOUNT DUE IS SUBJECT TO CHANGE, IT IS RECOMMENDED THAT APPLICANT CHECK THE CURRENT FEE SCHEDULE WHICH IS AVAILABLE ON THE USPTO'S WEBSITE AT: *http://www.uspto.gov/web/offices/ac/qs/ope/fees.htm*

Service Charges: There is a $50 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21(m)). There is a $25.00 service charge for each month when the balance of a deposit account is below $1000 at the end of the month (37 CFR 1.21(b)(2)).

Tamara Hunt (571) 272 - 4355
Technical Support Staff (TSS)

Note to TSS: Please do NOT use this notice if the application is under a final rejection.

PTOL-319A (Rev 5-05)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,241	11/13/2003	Michael Darnell Garner		2449

7590 12/10/2004

Michael D. Garner Jr.
119 Crab Apple Road
Huntsville, AL 35811

EXAMINER	
NORMAN, MARC B	

ART UNIT	PAPER NUMBER
3744	

DATE MAILED: 12/10/2004

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

Office Action Summary	Application No.	Applicant(s)	
	10/714,241	GARNER, MICHAEL DARNELL	
	Examiner	Art Unit	
	Marc E. Norman	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 July 2004*.

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) *1-4* 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) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ 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

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use. It is suggested that Applicant's specification be rewritten to conform to these guidelines. However, Applicant is reminded that no new inventive matter may be entered into the specification at this time. Only those sections that are relevant to Applicant's invention need be included (i.e., there is no need to include sections b, c, d, or k). Applicant is referred to the cited patents for examples of proper specification format.

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.
(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).

Claim Rejections - 35 USC § 112

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.

Claims 1-4 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. 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.

A preliminary search turned up the cited patents. However, due to the indefinite nature of Applicant's claims, it is impossible to do a full analysis regarding the patentability of Applicant's invention at this time. Applicant is required to rewrite the claims in a manner conforming to proper USPTO practice and procedure. Upon receipt of Applicant's revised claims, a new and full search of the prior art and analysis on the merits of Applicant's invention will be performed.

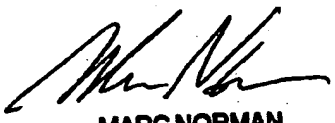
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN



MARC NORMAN
PRIMARY EXAMINER

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JJGJR.: 05-06

Paper No:__

MICHAEL D. GARNER JR.
119 CRAB APPLE ROAD
HUNTSVILLE AL 35811

COPY MAILED

MAY 30 2006

OFFICE OF PETITIONS

In re Application of :
Garner :
Application No. 10/714,241 :
Filing Date: 13 November, 2003 :
Attorney Docket No.: (None) :

DECISION

This is a revised decision on the petition filed on 12 April , 2006, seeking to revive the application as having been abandoned due to unintentional delay 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 10 December, 2004, with reply due absent extension of time on or before 10 March, 2005;

- on 2 March, 2005, Petitioner filed a paper, entitled: "Claims" and comprised of two (2) pages, however, on 8 July, 2005, the Office mailed a Notice of Non-Compliant Amendment and set a one- (1-) month period of response;[1]

[1] This Notice incorrectly reflects the receipt date of the filing as "04-02-05" (emphasis added), rather than the correct receipt date of 2 March, 2005.

- it was Petitioner's failure to reply timely and properly to the 8 July, 2005, which then resulted in the application going abandoned after midnight 8 August, 2005;

- Petitioner submitted additional papers on 24 August, 2005, however, as noted above, the application already had gone abandoned;

- the Office mailed the Notice of Abandonment on 31 January, 2006;

- on 17 February, 2006, Petitioner filed a the original paper (considered as a petition under 37 C.F.R. §1.181, inter alia, because Petitioner has failed to submit the petition with any fee), and with the allegation that he has been in contact with the Examiner (documented by the Examiner's Interview Summary) and that Petitioner had responded to the office action, and that petition was dismissed on 31 March, 2006, for failing to satisfy the burdens under the rule;

- with the instant petition, Petitioner files the reply and makes the statement of unintentional delay.

Out of an abundance of caution, Petitioner once again is reminded that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]). Moreover, Petitioner must be responsive within the time limits set out by the Office in Office actions because these time periods are statutorily set by Congress and cannot be altered by the Office.)

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

[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.

clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to
Unintentional Delay

The requirements under the rule are a petition, fee, reply, statement of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

Petitioner appears to have satisfied those requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3700 for further processing in due course.

---

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

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

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

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

[8] 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.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 11/20/2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,900,175

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:

SPE: 1623 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES R. BRUEGGEMANN, ESQUIRE
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
48TH FLOOR
333 SOUTH HOPE STREET
LOS ANGELES CA 90071-1448

COPY MAILED

JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Douglas J. Kelly :
Application No. 10/714,275 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 04Z9-104790 :

This is a decision on the petition under 37 CFR 1.181, filed January 10, 2006, to withdraw the holding of abandonment.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 14, 2005. Accordingly, this application became abandoned on September 15, 2005. A Notice of Abandonment was mailed on January 4, 2006.

Petitioner asserts that a amendment was timely submitted via facsimile transmission on September 13, 2005.

However, a review of application file indicates that the amendment submitted on September 13, 2005, and the instant petition, were erroneously identified by applicant as papers for application no. 11/714,275 and not 10/714,275.

Please note MPEP 502:

> "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions."

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

Petitioner should take care in the identification of papers submitted to the USPTO as errors in the identification may lead to delays in the examination process.

The papers erroneously submitted under application no. 11/714,275 have been moved to the instant application, application no. 10/714,275.

This application is being forwarded to Technology Center 3600, for review of the amendment, filed September 13, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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The McConnell Law Firm
2115 Saint Mary's Street
Raleigh, NC 27608

COPY MAILED

MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
Volker Boettiger :
Application No. 10/714,289 : ON PETITION
Filed: November 13, 2003 :
Attorney Docket No. DE920020042US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2006, to revive the above-identified application.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 7, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned after midnight June 7, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an appeal brief and $500 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 Technology Center Art Unit 2876, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FEB 8 2005

Paper No. 120804

Mr. William W. Haefliger
201 S. Lake Ave.
Suite 512
Pasadena, CA 91101

In re Application of:
Galvez
Serial No.: 10/714,299
Filed: November 13, 2004
Attorney Docket No.: **12,565**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed November 13, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 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 an affidavit/declaration from the inventor, James M. Galvez, showing that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

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.
10/714,304	11/14/2003	Chao-Cheng Chen	TS02-210	2110

42717 7590 02/09/2009

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

EXAMINER	
ESTRADA, MICHELLE	
ART UNIT	PAPER NUMBER
2823	

MAIL DATE	DELIVERY MODE
02/09/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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2/5/09

David O'Dell
HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

In re Application of:
Chao-Cheng Chen et al.
Serial No.: 10/714,304
Filed: November 14, 2003
Attorney Docket No.: TS02-210
Title: Dual Damascene Process Flow for Porous Low-K Materials

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Abandonment action following a decision from the US Board of Patent Appeals was mailed on January 27, 2009 in error. While the Examiner was affirmed by the Board, there remained some claims, notably 2, 3, 9, and 15-50 which were in condition for allowance prior to the decision by the Board and not subject to the appeal. Consequently, as per MPEP §1214.06, the application should have been passed to issue with those claims allowed; and, the claims where the Examiner was affirmed by the Board cancelled via an Examiner's Amendment.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn in view of the facts as outlined above. Consequently, the application is not abandoned in fact and upon entry of this paper into the image file wrapper and in PALM, a Notice of Allowance to that fact will be forthcoming.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 1, 2006

TO SPE OF : ART UNIT 1775 Jennifer C. McNeil

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/714,307 Patent No.: 7118813 B2

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

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

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

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

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

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER
SPE

1775
Art Unit

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KERRY SISSELMAN
CONCORD CAMERA CORP..
4000 HOLLYWOOD BLVD.., SUITE 650N
HOLLYWOOD, FL 33021

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of
KING, Brian
Application No. 10/714,308
Filed: November 13, 2003
Attorney Docket No. CONC-BK(U)

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 1, 2004.

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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BRIAN KING**
105 N. VICTORIA PARK ROAD
FT. LAUDERDALE, FL 33301

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KERRY SISSELMAN
CONCORD CAMERA CORPORATION
4000 HOLLYWOOD BLVD, SUITE 650N
HOLLYWOOD, FL 33021

COPY MAILED

JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
KING, Brian :
Application No. 10/714,308 : DECISION ON REQUEST FOR
Filed: November 13, 2003 : REVOCATION OF POWER
Attorney Docket No. **CONC-BK(U)** : 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 January 9, 2007.

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

There is an outstanding Non-Final Office action mailed April 2, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KATTEN MUCHIN ROSENMAN LLP**
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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JJGJR.: 07-06

Paper No: __

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND CO 80537-0599

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of :
Heumann, et al :
Application No. 10/714,321 : DECISION
Filing Date: 15 November, 2003 :
Attorney Docket No.: 10030539-1 :

This is a decision on the petition filed on 7 March, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 15 June, 2005, with reply due under a non-extendable deadline on or before 15 September, 2005;
- the instant application went abandoned after midnight 15 September, 2005;
- the Office mailed a Notice of Abandonment on 21 February, 2006;

- Petitioner filed the instant petition (with fee), indicated that the Fees Due have now been paid (as of 13 December, 2005) as the reply and made the statement of unintentional delay–notably, Petitioner appears confused that the mailing of a Supplemental Notice of Allowability on 19 October, 2005, effected the due date for a reply, because the October, 2005 Office action does not alter in any way the timetable applicable herein;

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements under the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby 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

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MAY - 6 2005

KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

In re Application of	:	
Khvorova et al.	:	
Serial No.: 10/714,333	:	PETITION TO MAKE SPECIAL
Filed: November 14, 2003	:	
Attorney Docket No.: 13499US	:	

This is in response to applicants' petition filed April 25, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was paid by check. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

OIPE IAP52
MAR 31 2006
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	10/714,343
Filing Date	November 14, 2003
First Named Inventor	James Lipton
Art Unit	1654
Examiner Name	Not yet assigned
Attorney Docket Number	54275.8016.US01

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

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

☐ all the attorneys/agents of record.

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

☑ the attorneys/agents associated with Customer Number 34055

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

The reasons for this request are: all further responsiblity is transferred to the applicant pursuant to applicant's request

APPROVED
5/30/06
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

CORRESPONDENCE ADDRESS

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

☐ The address associated with Customer Number:

OR

☑ Firm *or* Individual Name	Zengen Inc.				
Address	7049 Owensmouth Avenue Suite 112				
City	Canoga Park	State	CA	Zip	91303
Country	USA				
Telephone	(818) 887-8688	Email	info@zengen.com		
Signature					
Name	Joseph P. Hamilton	Registration No.	51,770		
Date	March 27, 2006	Telephone No.	(310) 788-9900		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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OFFICE OF PETITIONS

LaHive & Cockfield, LLP
Floor 30, Suite 3000
One Post Office Square
Boston, MA 02109

In re Patent No. 7,438,907	:
Schuurman et al.	: DECISION UPON REMAND AND
Issue Date: October 21, 2008	: RECONSIDERATION OF
Application No. 10/714,353	: PATENT TERM ADJUSTMENT
Filed: November 14, 2003	: AND NOTICE OF INTENT
Attorney Docket No. GMI-059RCE	: TO ISSUE CERTIFICATE OF
Title: Human Monoclonal	: CORRECTION
Antibodies Against CD25	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred and fifty-four (854) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and fifty-four (854) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,438,907 B2

DATED : **October 21, 2008** **DRAFT**

INVENTOR(S) : Schuurman 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 384 days

Delete the phrase "by 384 days" and insert – by 854 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 09:58:38

PTA Calculations for Application: 10/714353			
Application Filing Date:	11/14/2003	PTO Delay (PTO):	473
Issue Date of Patent:	10/21/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	89
Post-Issue Petitions:	0	Total PTA (days):	854
PTO Delay Adjustment:	470		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	05/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	470		
83.5	10/01/2008	PTA 36 MONTHS			
83	10/21/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
82	09/17/2008	EXPORT TO FINAL DATA CAPTURE			
81	09/15/2008	DISPATCH TO FDC			
80	09/15/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
79	09/10/2008	ISSUE FEE PAYMENT VERIFIED			
78	09/10/2008	ISSUE FEE PAYMENT RECEIVED			
77	09/04/2008	FINISHED INITIAL DATA CAPTURE			
76	06/27/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
75	06/20/2008	EXPORT TO INITIAL DATA CAPTURE			
73	06/18/2008	MAIL NOTICE OF ALLOWANCE			
72	06/05/2008	ISSUE REVISION COMPLETED			
71	06/05/2008	DOCUMENT VERIFICATION			
70	05/27/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
69	05/27/2008	EXAMINER'S AMENDMENT COMMUNICATION			
68	05/27/2008	NOTICE OF ALLOWABILITY			
62	03/12/2008	DATE FORWARDED TO EXAMINER			
61	02/28/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		26	55
60	03/12/2008	DISPOSAL FOR A RCE / CPA / R129			
59	02/28/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	02/28/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			

57	12/28/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
56	12/13/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	11/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
54	10/31/2007	FINAL REJECTION			
53	08/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	06/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
49	08/30/2007	DATE FORWARDED TO EXAMINER			
48	08/21/2007	RESPONSE AFTER NON-FINAL ACTION			
47	08/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	08/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	06/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	05/21/2007	MAIL NON-FINAL REJECTION			
43	05/11/2007	NON-FINAL REJECTION			
42	02/08/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
41	03/01/2007	DATE FORWARDED TO EXAMINER			
40	02/08/2007	RESPONSE AFTER NON-FINAL ACTION		63	36
39	02/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	02/20/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
36	09/07/2006	MAIL NON-FINAL REJECTION			
35	08/29/2006	NON-FINAL REJECTION			
34	07/06/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
33	07/13/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
32	07/11/2006	DATE FORWARDED TO EXAMINER			
31	06/29/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
30	06/29/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	06/20/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			

28	06/16/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
27	06/14/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
26	05/02/2006	MAIL RESTRICTION REQUIREMENT	473		-1
25	05/01/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
24	11/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	05/28/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	02/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	11/14/2005	REFERENCE CAPTURE ON IDS			
20.7	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	05/28/2004	REFERENCE CAPTURE ON IDS			
17.7	05/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	05/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	07/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	07/14/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	05/27/2004	APPLICATION RETURN FROM OIPE			
13	05/27/2004	APPLICATION RETURN TO OIPE			
12	05/27/2004	APPLICATION DISPATCHED FROM OIPE			
11	05/27/2004	APPLICATION IS NOW COMPLETE			
10	05/07/2004	ADDITIONAL APPLICATION FILING FEES			
9	05/07/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	03/19/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	02/02/2004	CLEARED BY OIPE CSR			
5	02/02/2004	CASE CLASSIFIED BY OIPE			
4	12/22/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	12/02/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
		CRF DISK HAS BEEN RECEIVED BY PREEXAM /			

2	11/14/2003	GROUP / PCT			
1	11/14/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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

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OFFICE OF PETITIONS

In re Application of :
Mahendra Pakala et al :
Application No. 10/714,357 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 2959P

This is a decision on the petition filed, April 6, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[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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WONG, CABELLO, LUTSCH, RUTHERFORD
& BRUCCULERI,P.C.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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OCT 25 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Larry E. Moser, et al.
Application No. 10/714,359
Filed: November 14, 2003
Atty Docket No. 247-0039US

This is a decision on the petition, filed October 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1731 for further processing of the request for continued examination under 37 CFR 1.114 filed October 22, 2004.

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

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

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

Mail Date: 05/10/2010

Applicant	: Stephen M. Trimberger	: DECISION ON REQUEST FOR
Patent Number	: 7653820	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/714,380	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/714,381	11/06/2003	3721	2434	PLA-116(CIP)	24	67	11

CONFIRMATION NO. 1816

00909
PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

CORRECTED FILING RECEIPT

OC000000013061444

Date Mailed: 06/24/2004

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

Applicant(s)

Richard S. Chomik, Orlando, FL;
Mark Yoho, Chagrin Falls, OH;
Stuart Leslie, Larchmont, NY;
Taek Kim, Washington Township, NJ;
Aidan Petrie, Jamestown, RI;
Joe Sejnowski, North Kingstown, RI;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/499,443 09/02/2003

Foreign Applications

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

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Waste storage device

Preliminary Class

053

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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MAY - 4 2005

In re Application of	:	
Richard S. Chomik	:	
Serial No. 10/714,381	:	DECISION ON
Filed: November 6, 2003	:	PETITION TO WITHDRAW
For: WASTE STORAGE DEVICE	:	AS ATTORNEY

By papers filed on February 4, 2005, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Charles Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle
One Landmark Square, 10th Floor
Stamford, CT 06901

Office of the Director
Technology Center 3700

Hans-Peter G. Hoffman
Pillsbury Winthrop, LLP
695 East Main Street
Stamford, CT 06904-6760

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ALCATEL LUCENT
(FKA ALCATEL INTERNETWORKING, INC.)
INTELLECTUAL PROPERTY & STANDARDS
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

COPY MAILED

OCT 21 2008

OFFICE OF PETITIONS

In re Application of :
Robert Leon Sangroniz, et. al. :
Application No. 10/714,384 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 134131 :

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

The application became abandoned for failure to respond to the non-final Office action mailed May 22, 2007. A Notice of Abandonment was mailed on March 6, 2008.

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 of Steven R. Santema appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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.

This application file is being referred to Technology Center Art Unit 2619 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: Steven R. Santema
2000 Lucent Lane
Naperville, IL 60566

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dw 04-04

ROGER R. WISE
PILLSBURY WINTHROP LLP
SUITE 2800
725 SOUTH FIGUEROA STREET
LOS ANGELES CA 90017-5406

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APR 23 2004

OFFICE OF PETITIONS

In re Application of :
Tovinkere et al. :
Application No. 10/714,390 : ON PETITION
Filed: 14 November, 2003 :
Atty's Docket No. 81674-306505 :

This is a decision on the petition filed on 8 March, 2004, requesting that the above-identified application be accorded a filing date of 14 November, 2003, with Page 17 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 14 November, 2003.

Accordingly, on 17 February, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 14 November, 2003, but that Page 17 of the specification (description and claims) appeared to have been omitted.

In response, on 8 March, 2004, the present petition and a copy of page 17 of the specification was filed. Petitioners argue that Page 17 was filed with the other application papers on 14 November, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 14 November, 2003, and the above-identified application number, and identifies the application by title and acknowledges receipt of, *inter alia*, "25 Pages Spec." Petitioners request that the application, including Page 17 of the specification, be accorded a filing date of 14 November, 2003.

It is noted that a portion of the left edge of the postcard bearing the Office date stamp has been cut-off, including part of the number "2" in the 25 Pages Spec. However, petitioners have supplied an additional copy of the postcard without the stamp, and both cards are identical, and the 25 pages of specification is clearly readable on the car without the stamp. Therefore, considering the evidence presented as a whole, the copy without the Office-date stamp verifies that the copy with the stamp states that 25 pages of specification were present on filing.

A review of the record reveals that no Page 17 of the specification has been located among the application papers received on 14 November, 2003. However, the evidence is convincing that the application papers deposited on 14 November, 2003, included Page 17 of the specification (description and claims), which was subsequently misplaced in the Office. Therefore, the application, including Page 17 of the specification, is entitled to a filing date of 14 November, 2003.

The "Notice" mailed on 17 February, 2004, is withdrawn.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary. Petitioners may request a refund by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request.

The application will be processed with the copy of Page 17 of the specification supplied on 8 March, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 14 November, 2003, using the application papers filed on that date, and the copy of Page 17 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Sotak et al.	:	DECISION ON PETITION
Application No. 10/714,413	:	TO WITHDRAW
Filed: November 14, 2003	:	FROM RECORD
Attorney Docket: 9417-2	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

The request is **APPROVED**.

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

The request was signed by Elizabeth A. Stanek, on behalf of all practitioners of record associated with Customer Number 20792.

Customer Number 20792 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions that require a reply from the applicant.

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.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JOHN ANDREW SOTAK
5217 RED WING COURT
FUQUAY VARINA, NC 27526

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/714,413	11/14/2003	John Sotak	9417-2

CONFIRMATION NO. 2263

POWER OF ATTORNEY NOTICE

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

OC000000040853163

Date Mailed: 03/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2010.

- 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.

/atkelley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,424	11/17/2003	Rajendran Nair		9491

7590 03/24/2009

Raj Nair
ComLSI Inc.
3838 E. Encinas Ave.
Gilbert, AZ 85234

EXAMINER	
TSO, EDWARD H	

ART UNIT	PAPER NUMBER
2838	

MAIL DATE	DELIVERY MODE
03/24/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Raj Nair
ComLSI Inc.
3838 E. Encinas Ave.
Gilbert, AZ 85234

In re Application of:
Rajendran Nair
Serial No.: 10/714,424
Filed: November 17, 2003
Title: METHOD & APPARATUS FOR CHARGING, DISCHARGING AND PROTECTION OF ELECTRONIC BATTERY CELLS

DECISION ON PETITION

This is a decision on the "Petition for fee waiver regarding 10/714,424 in response to OA mailed 07/21/08" filed on August 27, 2008, which petition is being treated as a petition to the Director under 37 CFR § 1.181(a)(1) requesting review of the action or requirement of the examiner in the *ex parte* prosecution of the instant application. No fee is required for the petition.

The petition is **GRANTED** to the extent that the actions and requirements of the examiner have been reviewed. Upon review, it has been determined that in the Office action mailed on July 21, 2008 the examiner erred in holding the amendment filed on March 17, 2008[1] non-compliant because no fee accompanied the amendment; rather, it has been determined that no fee was required for filing the amendment on March 10, 2008.

Petitioner's request for fee waiver is **DISMISSED** as moot, since no fee was required for filing the amendment.

BACKGROUND

An Office action was mailed December 16, 2005, which required restriction to one of three inventions under 35 U.S.C. 121. A response to the restriction requirement was filed on January 15, 2006. On April 21, 2006 a final Office action was mailed which made the restriction requirement final. On September 25, 2006 a response was filed in which applicant acknowledged the restriction requirement and elected one of the inventions. On November 29, 2006, a non-final Office action was mailed in which the examiner acknowledged applicant's

[1] The amendment was previously filed by facsimile transmission on March 10, 2008.

election in the reply filed on September 25, 2006 and treated the election as being an *election without traverse.*

Applicant filed a response to the non-final Office action on January 22, 2007, and the examiner issued a final rejection on October 10, 2007. A reply to the final rejection was filed on January 09, 2008. The examiner issued an Advisory Action on February 25, 2008, which indicated that applicant's reply had overcome all the rejections in the final rejection, but did not place the application in condition for allowance because the withdrawn claims needed to be canceled before the claims would be allowable. On March 10, 2008, applicant filed via facsimile transmission an amendment cancelling the withdrawn claims. A duplicate copy of the amendment was received in the mail on March 17, 2008. A Notice of Non-compliant Amendment was mailed on July 21, 2008 holding the amendment filed on March 17, 2008 non-compliant because no fee accompanied the amendment. The instant petition was filed on August 27, 2008 requesting waiver of the fee.

STATUTES, REGULATIONS AND PROCEDURES

35 U.S.C. 132 states:

> (a) Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application;

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 1.104 states:

> (2) The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution.

37 CFR 1.134 states:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

MPEP § 821.02 states:

> Under these circumstances [claims stand withdrawn without traverse], when the application is otherwise ready for allowance, the claims to the nonelected invention, except for claims directed to nonelected species and nonelected inventions eligible for rejoinder, may be canceled by an examiner's amendment, and the application passed to issue.

OPINION

A review of the application file record indicates that in the Advisory Action of February 25, 2008 the examiner indicated that the reply that applicant filed on January 9, 2008 overcame all of the rejections made by the examiner in the final rejection mailed on October 10, 2008. A review further indicates that no objection or requirement to cancel the nonelected claims was made by the examiner in the final rejection mailed on October 10, 2008. Accordingly, the Advisory Action of February 25, 2008 imposed a novel requirement on the applicant but did not provide the applicant with a minimal time period, not less than thirty days, in which to reply, as required by both the Statutes and Regulations. Insofar as reply filed on January 9, 2008 overcame all of the rejections in the final rejection of October 10, 2008 and there was no objection or requirement made, the reply constituted a complete response to the final Office action. As such, it tolled the period for filing a complete response to the final Office action. Consequently, the mailing of the Advisory Action on February 25, 2008 imposing a novel requirement without providing applicant with a time period, not less than thirty days, to reply was in error and is hereby **VACATED**. The examiner, following the guidance of the MPEP, was authorized to cancel the withdrawn claims by examiner's amendment and pass the application to issue. That the examiner did not to follow the guidance of the MPEP, nor comply with the Statues and Regulations, should not be held against the applicant.

In view of the Advisory Action of February 25, 2008 being vacated, the Notice of Non-compliant Amendment mailed on July 21, 2008 is likewise **VACATED**.

In view of the failure of the Advisory Action of February 25, 2008 to properly set a time period for reply to the novel requirement to cancel the withdrawn claims, the reply filed by applicant on March 10, 2008 can only be construed as timely filed. Accordingly, it is concluded no fee was necessary for filing the amendment on March 10, 2008.

CONCLUSION

The petition is **GRANTED** to the extent that the actions and requirements of the examiner have been reviewed.

Upon review, it has been determined that the mailing of the Advisory Action on February 25, 2008 imposing a novel requirement without providing applicant with a time period, not less than thirty days, to reply was in error and is hereby **VACATED**. It has further been determined that the examiner erred in holding the amendment filed on March 17, 2008 non-compliant because no fee accompanied the amendment; rather, it has been determined that no fee was required for filing the amendment filed first on March 10, 2008 and later on March 17, 2008.

Petitioner's request for fee waiver is **DISMISSED** as moot, since no fee was required for filing the amendment.

The application file is being returned to the examiner for further action not inconsistent with this decision. In view of the fact that the reply filed on January 9, 2008 overcame all the rejections in the final Office action of October 10, 2007, and insofar as the reply filed on March 10, 2008 cancels the withdrawn claims, the amendment filed on March 10, 2008 **will be entered** and appropriate action taken by the examiner.

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

John, W. Cabeca, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 092704

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

OCT 19 2004

In re Application of:
STEVEN PETRUCELLI
Serial No.: 10/714,443
Filed: November 14, 2003
Attorney Docket No.: **N0648-00265**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 2004.

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

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHRISTENSEN, O'CONNOR, JOHNSON,
KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of :
T. Douglas Moser et al :
Application No. 10/714,446 : DECISION GRANTING PETITION
Filed: November 14, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TDMF121764 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed February 22, 2007, 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 1761 to consider the reply received September 18, 2007.

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
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OSHA LIANG L.L.P.
1221 MCKINNEY STREET, SUITE 2800
HOUSTON, TX 77010

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of :
WAKIL, et al. :
Application No. 10/714,454 : DECISION ON PETITION
Filed: November 14, 2003 : TO WITHDRAW
Attorney Docket No. **17116.003003** : 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 23, 2007.

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

A review of the file record indicates that the power of attorney to OSHA LIANG LLP has been revoked by the applicant of the patent application on April 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ADLER & ASSOCIATES**
8011 CANDLE LANE
HOUSTON, TX 77071

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OFFICE OF PETITIONS

EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614

In re Application of	:	
Jan Otto SOLEM et al.	:	
Application No. 10/714,462	:	DECISION ON PETITION
Filed: November 13, 2003	:	
Attorney Docket No. PVI-5697CIPCON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 06, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 21, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 22, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $1620.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of November 21, 2008 has been accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 3774 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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RALEIGH NC 27627

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JAN 07 2010

In re Application of	:	
He et al.	:	
Application No. 10/714,471	:	ON PETITION
Filed: November 15, 2003	:	
Attorney Docket No. 9096-14	:	

This is a decision on the petition, filed October 22, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). Accordingly, a reply was due on or before December 18, 2007.

Petitioner states that a timely reply was mailed via certificate of mailing on December 13, 2007, which included the following papers: 1) an Appeal Brief and 2) a $255.00 check. On February 27, 2009, a copy of the previously mailed correspondence, which bears a certificate of mailing dated December 13, 2007, which would have rendered the reply timely if received, was resubmitted.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply received on February 27, 2008 will be accepted in place of the reply shown to have been mailed on December 13, 2007.

The $270.00 petition fee submitted concurrently with the instant petition is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 3743 for appropriate action in the normal course of business on the reply received in February 2008.

Liana Walsh
Petitions Examiner
Office of Petitions

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Joseph R. Kelly
Westman, Champlin & Kelly, P.A.
Suite 1400
900 Second Avenue South
Minneapolis, MN 55402-3319

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:
Westby et al.	:
Application No. 10/714,478	:DECISION ACCEPTING
Filed: November 13, 2003	:SHOW CAUSE
Attorney Docket No. STL 8646	:

This is a decision issued in response to the applicants' July 12, 2007 communication entitled **Response To Order To Show Cause Why The Office Should Not Terminate The Present Reissue Proceeding**, requesting that prosecution of the above-identified application be continued.

Applicants' communication is before the Office of Patent Legal Administration (OPLA) for decision.

BACKGROUND

1. The present application ("present reissue proceeding") was filed November 13, 2003, for reissue of U.S. Patent No. 6,317,800 (the '800 patent), which issued November 13, 2001.

2. A review of the Office's financial records for the '800 patent reveals that the 3.5 year maintenance fee due and not paid could have been paid during the period from November 15, 2004 (November 13, 2004 was a Saturday) through May 13, 2005, or with a surcharge during the period from May 16, 2005 (May 14, 2005 was a Saturday) through November 14, 2005 (November 13, 2005 was a Sunday). As a result, the '800 patent expired after midnight on November 13, 2005, for failure to pay the 3.5 year maintenance fee due. See 1302 *Official Gazette* 1232 (January 10, 2006).

3. On November 7, 2006, in the present reissue proceeding, an Order to Show Cause was mailed, but was returned to the Office as undeliverable.

4. On February 1, 2007, a change of correspondence address for the present reissue

proceeding was submitted by facsimile transmission, in response to a telephone communication from Fred A. Silverberg, Senior Legal Advisor in the Office of Patent Legal Administration,.

5. On February 2, 2007, the Order To Show Cause was remailed to the new correspondence address. The remailed Order To Show Cause stated that the '800 patent had expired for failure to pay the first maintenance fee, the Director of the Office no longer had the authority under 35 U.S.C. § 251 to reissue the '800 patent, and the Office intended to terminate the present reissue proceeding and hold the application for reissue of the '800 patent to be an abandoned application. Applicants were given a period of 30 DAYS from the mailing of the remailed Order To Show Cause why the Office should not terminate the present reissue proceeding.

6. In response, on March 8, 2007, *inter alia*, the present communication entitled **Response To Order To Show Cause Why The Office Should Not Terminate The Present Reissue Proceeding** and an authorization to charge counsel's deposit account for any deficiency associated with the communication were filed. Applicants requested that prosecution of the application be continued, as the owner of the '800 patent had also filed, on March 8, 2007, the requisite first maintenance fee along with a petition (and petition fee) to accept late payment of the maintenance fee based upon the patent owner's unavoidable failure to timely pay the maintenance fee.

7. On April 26, 2007 the Office issued a Second Order to Show Cause finding that the response to the first Show Cause Order of February 2, 2007 was not sufficient to provide basis for resuming examination of the application. Applicants were provided with a period of six months to again show cause why the Office should not terminate the present reissue proceeding. Applicants were advised that if applicants proposed to show cause why the present reissue proceeding should not be terminated, applicants' showing must include either: A) a copy of a favorable determination on the merits of the March 8, 2007 petition to accept late payment of the first maintenance fee, or B) an explanation of why the proceeding should not be terminated at that point in time even though the original patent has expired. Applicants were also to show due diligence.

8. On July 12, 2007, applicants filed the present response, entitled **Response To Second Order To Show Cause Why The Office Should Not Terminate The Present Reissue Proceeding.**

DECISION

The papers filed by applicant show that a favorable decision has been issued on a petition to accept late payment of the 3.5 year maintenance fee of the '800 patent. The Office of Petitions mailed a decision granting the petition on July 10, 2007.

Further, a review of the Office's records reveals that a 3.5 year maintenance fee payment of $900.00, was "accounted" to the '800 patent on July 5, 2007. Thus, the '800'patent is not expired for failure to pay the first maintenance fee. In addition, the present reissue proceeding has been properly brought before the Office of Patent Legal Administration for consideration, and it has now been shown that the original patent is not expired. The applicants also demonstrated due diligence in filing the required responses. Accordingly, consideration of the application will be resumed, and jurisdiction over the application is being forwarded to the examiner for further examination, as appropriate, in due course.

CONCLUSION

1. Applicants are deemed to have shown cause as to why the Office should not terminate the instant reissue proceeding.

2. Consideration of the reissue application will be resumed.

3. Jurisdiction over the application file is being returned to Technology Center Art Unit 2116 for further examination, as appropriate, in due course.

4. Any further communications as to the merits of the reissue application should be directed to examiner Thuan Du, in Technology Center Art Unit 2116, who can be reached at 571-272-3673.

5. Telephone inquiries related to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Patent of Qu et al.	:	DECISION ON REQUEST
Patent No. 7,514,213	:	FOR RECONSIDERATION OF
Issue Date: April 7, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/714,508	:	AND
Filed: November 14, 2003	:	NOTICE OF INTENT TO ISSUE
Docket No. 034827-3002	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed May 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-nine (1,169) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-nine (1,169) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-nine (1,169)** days.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,514,213 B2

DATED : April 7, 2009

INVENTOR(S) : Kevin Z. Qu 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 U.S.C. 154(b) by (938) days

Delete the phrase "by 938 days" and insert – by 1169 days--

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OFFICE OF PETITIONS

In re Patent No. 7,437,018 :
Issued: October 14, 2008 :
Application No. 10/714,514 : PATENT TERM ADJUSTMENT
Filed: November 14, 2003 :
Dkt. No.: 07844-597001 / P550 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed November 24, 2008.

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

The above-identified application matured into U.S. Pat. No. 7,437,018 on October 14, 2008. The patent issued with a PTA 762 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 762 days to 1,336 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 574 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 795 days do not overlap as these periods do not occur on the same day. The 574-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 14, 2003 and the application having issued as a patent on October 14, 2008. Patentees assert that in addition to this 574-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 795 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 only a 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 1,369 days (the sum of the period of three year delay (700 days) and the period of examination delay (795 days), reduced by 126 days of overlap). As such, patentees assert entitlement to a patent term adjustment of 1,336 days (700 days *plus* 795 days *less* 126 days of overlap *less* 33 days of applicant delay).

The Office agrees that as of the issuance of the patent on October 14, 2008, the application was pending three years and 700 days after its filing date. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 795 days is correct. At issue is whether patentees should accrue an additional 700 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 795 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 700 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-

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 14, 2003, to the date the patent issued on October 14, 2008. Prior to the issuance of the patent, 795 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 700 days after its filing date. However, the Office did not delay 700 days and then delay an additional 795 days. Accordingly, 795 days of patent term adjustment (not 795 days and 700 days) was properly entered because the entire period of delay of 700 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 795 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).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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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ARLINGTON VA 22203

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AUG 2 5 2008

In re Application of	:	
Lionel Belnet et al	:	
Application No. 10/714,521	:	DECISION GRANTING PETITION
Filed: November 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 550-484	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 21, 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 July 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2136 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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ERIC B. MEYERTONS
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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In re Application of :
Gilles Houle et al. :
Application No. 10/714,523 : DECISION ON PETITION
Filed: November 14, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. 5053-00507 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 13, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from one of the applicant's declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2624 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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In re Application of	:	
ROTTIER, et al.	:	
Application No. 10/714,534	:	DECISION GRANTING PETITION
Filed: November 14, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2183-6193US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 25, 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 September 2, 2008 *cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*[1]

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

This application is being referred to Technology Center AU 1648 for processing of the request for continued examination under 37 CFR 1.114.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Watson, Palanca, English, and Winowiecki :
Application No.: 10/714,558 : DECISION ACCORDING
Filed: November 13, 2003 : RULE 47(a) STATUS
Attorney Docket No: 7998-000022/CPC :
For: **MOLD-IN COLOR PANELS**

This is in response to the petition under 37 CFR 1.47(a), filed July 13, 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 13, 2003, without an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 18, 2004, requiring an executed oath or declaration and surcharge, and the payment of claim and filing fees. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed responsively on July 13, 2004, with a request for an extension of time within the third month.

Petitioner has shown that inventor Winowiecki has refused 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

It is noted that the previous attorneys of record filed the petition. A copy of this decision is being mailed to their offices for their records.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Harness, Dickey & Pierce, P.L.C.
PO Box 828
Bloomfield Hills, MI 48303

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KLAUBER & JACKSON
4TH FLOOR
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Avelino Corma Canos et al :
Application No. 10/714,571 : NOTICE
Filed: November 14, 2003 :
Attorney Docket No. 2429-1-027 :

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

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

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

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

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

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150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

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JUL 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Tzannis et al. :
Application No. 10/714575 : DECISION ON PETITION
Filed: 11/14/2003 :
Attorney Docket Number: 0180.00 :

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 26 January, 2007, for failure to timely submit a proper reply to the final Office action mailed on 25 September, 2006, which set a three (3) month shortened statutory period for reply. On 17 January, 2007, an amendment after final rejection and a one (1) month extension of time were submitted. On 13 February, 2007, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply

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

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

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

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

filed on 17 January, 2007 fails to place this application in condition for allowance. Notice of Abandonment was mailed on 15 May, 2007.

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 1644 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061117

DATE : November 17, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,056,921

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Thomas McKenzie **Art Unit** 1625

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THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
Paul Wentworth, et al. :
Application No. 10/714,580 : ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. TSRI 784.5 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 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 August 1, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 2, 2006.

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

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

This application is being referred to Technology Center AU 1645 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Paul Wentworth, et al. :
Application No. 10/714,580 : DECISION ON PETITION
Filed: November 14, 2003 : TO WITHDRAW
Attorney Docket No. 1361.027US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 10, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, PA has been revoked by the assignee of the patent application on January 22, 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: HUGH WANG, ESQ., PH.D
THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF THE PATENT COUNCIL, TPC8
10550 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/714,580	11/14/2003	Paul Wentworth	1361.027US1

CONFIRMATION NO. 1792

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000024621625

Date Mailed: 07/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2007.

- 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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BOVICEVIC, FIELD & FRANCIS, LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of :
Janakiraman Ramachandran, et al. :
Application No. 10/714,591 : DECISION ON PETITION
Filed: November 14, 2003 : TO WITHDRAW
Attorney Docket No. GANG-006 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 29, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Bovicevic, Field & Frances, LLP has been revoked by the assignee of the patent application on August 6, 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: BETH KELLY
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

MILLER THOMPSON, LLP
SCOTIA PLAZA
40 KING STREET WEST, SUITE 5800
TORONTO ON M5H 3S1 CA CANADA

In re Application of :
David Stinson :
Application No. 10/714,624 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 049377.0005/ejg :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 8, 2006. A Notice of Abandonment was mailed on April 11, 2007. In response, on May 16, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the application is being referred to Technology Center AU 3753 for consideration of the amendment filed February 26, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JUL 23 2007

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TYSONS CORNER, VA 22182

TECHNOLOGY CENTER 2100

NOTICE OF WITHDRAWAL

FROM ISSUE
UNDER 37 CFR 1.313(b)

In re Application of
Dan Forsberg
Application No. 10/714,638
Filed: November 18, 2003
Attorney Docket No.: 59864.00528
For: FASTER AUTHENTICATION PARALLEL MESSAGE PROCESSING

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Jack Harvey 571-272-4150.

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

Jack Harvey
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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JUN 20 2008

In re Application of	:	DECISION
Patrick Duvaut, Ehud Langberg, Lujing Cai,	:	AMENDING INVENTORSHIP AND
Laurent Pierrugues, William Scholtz , Oliver	:	GRANTING RULE 1.183
Moreno, Feng Ouyang and Massimo Sorbara	:	
Application No. 10/714,655	:	
Filed: November 18, 2003	:	
Attorney Docket No. 060707-1680	:	

This is in response to the petitions filed under 37 CFR §§1.48 and 1.47 filed on January 15, 2008. The petition filed under 1.47 is hereby sua sponte being treated under 37 CFR 1.183.

The petition filed under 37 CFR 1.48 is **GRANTED**..
The petition filed under 37 CFR 1.47 is **DISMISSED** as inappropriate.
The petition filed under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on November 11, 2003. An executed oath or declaration was filed on April 12, 2004 filing naming inventors Duvaut, Langberg, Cai, Pierrugues, Scholtz, Moreno and Ouyang as the co- inventors. Petitioner now seeks to amend the inventorship for the above-identified application to add inventor Massimo Sorbara.

Petition Under 37 CFR 1.48

A grantable petition under 37 CFR 1.48 (a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or §1.47; (4) the processing fee set forth in §1.17(I); and (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

Petitioner has met the requirements of 37 CFR 1.48 with the filing of a grantable petition under 37 CFR 1.183.[1]

[1]The petition filed under 37 CFR 1.47 provided the information required for a grantable petition under 1.183.

The Petition Under 37 CFR 1.47

Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the re-execution of another oath or declaration by an inventor who executed the original declaration. In such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors, execute the oath or declaration, particularly where assignee consent is given to the requested correction.

The petition under 37 CFR 1.47 is **dismissed as inappropriate.**

Petition Under 37 CFR 1.183

In those situations where, as here, a previously signing inventor refuses to execute a supplemental oath or declaration under 37 CFR 1.67, waiver under 37 CFR 1.183 of the requirement for an additional signature would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented adequately establishes, that inventor Oliver Moreno has refused to re-execute the application papers. It is agreed that under the extraordinary circumstances of this application, justice would be served by waiver of the requirements of 37 CFR 1.48(a)(3).

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

The Office is in receipt of $200.00 towards the petition fee under 37 CFR 1.47. However, the petition fee under 37 CFR 1.183 is $400.00. As such deposit account no. 50-0835 will be charged the $200.00 difference.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/714,655	11/18/2003	2611	2040	060707-1680	16	1

CONFIRMATION NO. 2525

CORRECTED FILING RECEIPT

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Date Mailed: 06/20/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Patrick Duvaut, Tinton Falls, NJ;
Ehud Langberg, Wayside, NJ;
Lujing Cai, Morganville, NJ;
Laurent Pierrugues, Tinton Falls, NJ;
William Scholtz, Red Bank, NJ;
Oliver Moreno, Paris, FRANCE;
Feng Ouyang, Holmdel, NJ;
Massimo Sorbara, Freehold, NJ;

Assignment For Published Patent Application

Globespan Virata Incorporated

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/491,268 07/31/2003
and claims benefit of 60/426,796 11/18/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/11/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/714,655**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

IMPLEMENTATION OF SMART DSL FOR LDSL SYSTEMS

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Alt et al. :
Application No. 10/714,678 : DECISION ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 032301.354 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to properly and timely reply to the final Office Action mailed on October 12, 2004, which set a three (3) month shortened statutory period for reply. Petitioners did not obtain any timely and proper extensions of time for reply. Accordingly, the application became abandoned on January 13, 2005. A Notice of Abandonment was mailed on May 18, 2005.

Although petitioners filed a timely response on January 18, 2005 (certificate of mailing dated January 12, 2005), it did not *prima facie* place the application in condition for allowance. **The Notice of Appeal filed May 9, 2005, has been entered and made of record. Accordingly, the two (2) month period for filing the Appeal Brief, in triplicate, accompanied by the requisite fee, runs from the date of this decision.**

This matter is being referred to Technology Center Art Unit 1754.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OIPE
MAR 17 2004
PATENT & TRADEMARK OFFICE
JC699

Attorney Docket No. 5646-118

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: John R. Mick, Jr. et al.
Serial No.: 10/714,680
Filed: November 14, 2003
For: CAM-BASED SEARCH ENGINES HAVING PER ENTRY AGE REPORTING CAPABILITY

Date: March 15, 2004

Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD THE PROPER FILING DATE

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of November 14, 2003 rather than November 17, 2003 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of November 14, 2003 being the correct filing date for the application, which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;

2. A true and accurate copy of the Express Mail Receipt along with a copy of the USPS-Track & Confirm from the web page (www.usps.com) , showing "acceptance" or deposit date with the USPS at 5:38 p.m. on November 14, 2003; and

3. A true and accurate copy of our return post card and of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of November 17, 2003 instead of the Express Mail date of November 14, 2003.

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of November 14, 2003 as the filing date pursuant to 37 CFR § 1.10.

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

Grant J. Scott
Attorney For Applicant
Registration No. 40,723

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 15, 2004.

Candi L. Riggs

OIPE
MAR 17 2004
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY DOCKET NO.: 5646-118
DATE: November 14, 2003

UTILITY PATENT APPLICATION TRANSMITTAL LETTER AND FEE TRANSMITTAL FORM (37 CFR § 1.53(b))

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

Sir:

Transmitted herewith for filing under 37 CFR § 1.53(b) is:

☐ a patent application
☐ a Continuation ☐ a Divisional ☒ a Continuation-in-Part (CIP) Application of prior application no.: 10/698,246, filed October 31, 2003, the disclosure of which is incorporated herein by reference in its entirety.
☒ and claims the benefit of Provisional Application No. 60/516,178; filed October 31, 2003.

Inventor(s) or Application Identifier:

John R. Mick, Jr. - Sunnyvale, California
Harmeet Bhugra - San Jose, California
Jakob Saxtorph - San Jose, California

Entitled: **CAM-BASED SEARCH ENGINES HAVING PER ENTRY AGE REPORTING CAPABILITY**

Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Customer No. 20792

Enclosed are:

1. ☒ Application Transmittal Letter and Fee Transmittal Form *(A duplicate is enclosed for fee processing)*
2. ☒ **28** pages of Specification (including **20** claims)
3. ☒ **11** sheets of **Formal** Drawings (35 USC 113)
4. ☒ Oath or Declaration
   a. ☒ newly executed *(original or copy)*
   b. ☐ copy from prior application (37 CFR 1.63(d) *(for continuation/divisional)* **[Note Box 6 Below]**
   c. ☐ DELETION OF INVENTOR(S) *(Signed statement deleting inventor(s) named in the prior application)*
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference *(useable if box 4b is checked)*
   The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

7. ☐ Microfiche Computer Program *(Appendix)*
8. ☒ Assignment papers *(cover sheet(s) and document(s))*
9. ☐ Applicant claims small entity status. See 37 CFR § 1.27.
10. ☒ Information Disclosure Statement and PTO-1449
11. ☐ Preliminary Amendment ***(Please enter all claim amendments prior to calculating the filing fee.)***
12. ☐ English Translation Document
13. ☐ Certified Copy of Application No. ; Filed
14. ☐ Sequence Listing/ Sequence Listing Diskette
    a. ☐ computer readable copy
    b. ☐ paper copy
    c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) *(Should be specifically itemized)*
17 ☐ Deletion of Inventors(s) (Signed statement attached deleting inventor(s) name in the prior application. See 37 CFR 1.63(d)(2) and 1.33(b).
18. ☒ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form.
19. ☐ Other:

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
BASIC FEE			$385.00	$ 770.00
TOTAL CLAIMS	20 - 20 =	0	x 09 = $	x 18 = $ 0
INDEP CLAIMS	5 - 3 =	2	x 43 = $	x 86 = $172.00
☐ MULTIPLE Dependent Claims Presented			+ 145 = $	+ 290 = $
If the difference in Col. 1 is less than zero, Enter "0" in Col. 2			Total $	Total $942.00

☐ A check in the amount of $ to cover the filing fee is enclosed.

☒ A check in the amount of $982.00 is enclosed to cover the filing fee, PLUS the Assignment Recordation fee ($40.00).

☐ Please charge my Deposit Account No. 50-0220 in the amount of $

☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:

a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.

b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

Grant J. Scott
Registration No. 36,925

CERTIFICATE OF EXPRESS MAILING

Express Mail Label No. EV 193631115 US
Date of Deposit: November 14, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated above and is addressed to: Mail Stop PATENT APPLICATION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Candi L. Riggs

EV 193631115 US

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PO ZIP Code: 27622	Day of Delivery: ☒ Next ☐ Second	Flat Rate Envelope: ☐
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Time In: ☐ AM ☐ PM	Military: ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee
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No Delivery: ☐ Weekend ☐ Holiday	Acceptance Clerk Initials: TMM	Total Postage & Fees: $ 13.65

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Federal Agency Acct. No. or Postal Service Acct. No.:

FROM: (PLEASE PRINT) PHONE 919 854 1400

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627-7428

GSS:clr 5646-118

TO: (PLEASE PRINT) PHONE ( )

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Commissioner for Patents
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Here is what happened earlier:

- ARRIVAL AT PICK-UP-POINT, November 15, 2003, 10:28 am, ALEXANDRIA, VA 22313
- ARRIVAL AT UNIT, November 15, 2003, 10:16 am, DULLES, VA 20102
- ENROUTE, November 14, 2003, 7:09 pm, RALEIGH, NC 27623
- ACCEPTANCE, November 14, 2003, 5:38 pm, RALEIGH, NC 27612

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GJS:clr

5646-118
November 14, 2003

Mail Stop Patent Application 03 A09:51 IN
Commissioner for Patents
P.O. Box 1450
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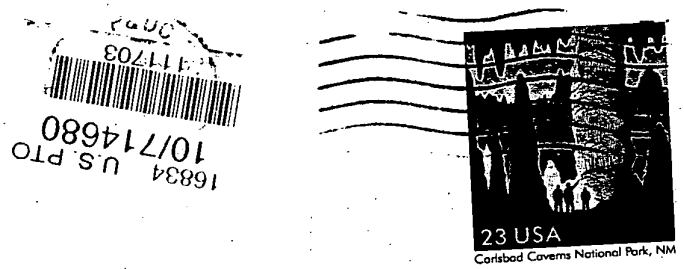
Express Mail Label No. EV 193631115 US

Sir: Kindly acknowledge receipt of the accompanying by placing your receiving date stamp hereon and mailing:

Utility Patent Application Transmittal Letter and Fee Transmittal Form (in duplicate); Specification (28 pages – 20 claims); Drawings (11 pages – Figs. 1-8); Nonpublication Request; Declaration and Power of Attorney; Assignment Recordation Form Cover Sheet; Assignment; Information Disclosure Statement; Form PTO-1449; Check for $982.00; In re: John R. Mick, Jr. et al; For: CAM-BASED SEARCH ENGINES HAVING PER ENTRY AGE REPORTING CAPABILITY

Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC



MYERS BIGEL SIBLEY & SAJOVEC, P.A.
Patent Lawyers
P.O. Box 37428
Raleigh, NC 27627 U.S.A.

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MAR 17 2004
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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
10/714,680	11/17/2003	2818	942	5646-118	11	20	5

CONFIRMATION NO. 2326

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

MYERS BIGEL
RECEIVED
FEB 23 2004
U.S. DOCKET

FILING RECEIPT

OC000000011897847

Date Mailed: 02/12/2004

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

Applicant(s)

John R. Mick JR., Sunnyvale, CA;
Harmeet Bhugra, San Jose, CA;
Jakob Saxtorph, San Jose, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/698,246 11/03/2003 *
which claims benefit of 60/516,178 11/03/2003 *
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 02/12/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

02-23-04 A 9:49 IN

Early Publication Request: No

Title

CAM-based search engines having per entry age reporting capability

Preliminary Class

365

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

GRANTED

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

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

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

NOT GRANTED

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

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
John R. Mick, Jr. et al. :
Application No. 10/714,680 : DECISION GRANTING
Filed: November 14, 2003 : PETITION
Attorney Docket No. 5646-118 :

This is a decision on the petition filed March 17, 2004, requesting that the above-identified application be accorded a filing date of November 14, 2003, rather than the presently accorded date of November 17, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on November 14, 2003. In support, a copy of Express Mail receipt No. EV193631115US, showing a "date-in" of November 14, 2003, accompanies the petition. Additionally, a copy of the "USPS Track and Confirm" from the USPS internet site, showing Express Mail receipt No. EV193631115US was accepted at the USPS on November 14, 2003, accompanies the petition. The same Express Mail receipt number was referred to in the original application papers found in the file.

The Office considers the date the paper or fee shown as deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on November 14, 2003.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of November 14, 2003.** Thereafter, the application file will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/714683 received on 01/22/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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PEARNE & GORDON LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

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MAR 11 2010

In re Application of	:	
Glen J. Anderson	:	
Application No. 10/714,715	:	DECISION ON PETITION
Filed: November 17, 2003	:	TO WITHDRAW
Attorney Docket No. AC-09016-US-TR	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 4, 2010.

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

A review of the file record indicates that the power of attorney to Pearne & Gordon, LLP has been revoked by the assignee of the patent application on January 12, 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 Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WPAT, PC**
2030 Main Street, Suite 1300
Irvine, CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 9, 2009

TO SPE OF : ART UNIT 2123
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/714738 pat. No 7302370

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: ALL CHANGES APPROVED

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2123
Art Unit

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OFFICE OF PETITIONS

Laura L. Conley
900 28th Street
Suite #201
Boulder, CO 80303

In re Application of :
W. Michael Bissonnette, et. al. :
Application No. 10/714,786 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. 03-02 :

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

This application became abandoned for failure to timely respond to the final Office action mailed June 2, 2005. A Notice of Abandonment was mailed on January 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee and an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3643.

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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MAY 13 2005

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

In re Application of	:	
Li et al	:	
Serial No.: 10/714,795	:	DECISION ON PETITION
Filed: November 17, 2003	:	
For: Multi-Frequency Microwave-Induced Thermoacoustic Imaging of Biological Tissue	:	

This is in response to applicants' Petition filed November 22, 2004, 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 Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571 272-3750 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KARL R. CANNON
PO BOX 1909
SANDY, UT 84091

MAILED

FEB 0 1 2010

OFFICE OF PETITIONS

In re Application of :
Stephen Day Broderick et al :
Application No. 10/714,805 : DECISION ON PETITION
Filed: November 15, 2003 :
Attorney Docket No. T10901 :

This is a decision on the petition, filed October 19, 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 in a timely manner to the Restriction Requirement mailed September 26, 2006. A Notice of Abandonment was mailed on April 10, 2009.

Petitioner asserts that the Office action dated September 26, 2006 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of September 26, 2006. In this regard, the Office received a Power of Attorney/Change of Address on January 17, 2006, prior to the mailing of the Office action of September 26, 2006 Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed April 10, 2007, is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3635 for remailing the Office action of September 26, 2006 and resetting the period for reply.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATRICK G. BURNS, ESQ.
GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

MAILED

JAN 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Kunihiro Tashiro, et al.	:	
Application No. 10/714,816	:	DECISION GRANTING PETITION
Filed: November 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1117.68737	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

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OFFICE OF PETITIONS

In re Application of :
Maria Berenyi et al :
Application No. 10/714,820 :
Filed: November 17, 2003 :
Attorney Docket No. SONN:043US

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 Irvin Dingle at (571) 272-3210.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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APR 30 2007

OFFICE OF PETITIONS

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

In re Application of	:	
G. Jason Wei, et al	:	
Application No. 10/714,836	:	DECISION ON PETITION
Filed: November 14, 2003	:	TO WITHDRAW
Attorney Docket No. 163.1141USC6	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed on January 19, 2007 that requires a reply by applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD, PC
ATTENTION OF MARK T. SKOOG
PO BOX 2903
MINNEAPOLIS, MN 55402-0903

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AUG 14 2007

OFFICE OF PETITIONS

In re Application of :
G. Jason Wei, et al. :
Application No. 10/714,836 : DECISION GRANTING PETITION
Filed: November 14, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 163.1141USC6 :

This is a decision on the petition under 37 CFR 1.313(c)(2) filed August 8, 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 31, 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 1751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances 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.*

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MENDEL BIOTECHNOLOGY C/O MOFO SF
425 MARKET STREET
SAN FRANCISCO, CA 94105

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of
Jacqueline E. Heard, et. al.
Application No. 10/714,887
Filed: November 13, 2003
Attorney Docket No. MBI-0058CIP

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

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 27, 2006, 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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

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 will be mailed solely to the address of record.

This application is being forwarded to Technology Center Art Unit 1638, for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

cc: Suzanne Mack
Mendel Biotechnology, Inc.
21375 Cabot Boulevard
Hayward, CA 94545

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	TOT CLMS	IND CLMS
10/714,887	11/13/2003	1638	1582	MBI-0058CIP	34	8

CONFIRMATION NO. 5720

CORRECTED FILING RECEIPT

OC000000024501118

47550
MENDEL BIOTECHNOLOGY C/O MOFO SF
425 MARKET STREET
SAN FRANCISCO, CA 94105

Date Mailed: 06/22/2007

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)

Jacqueline E. Heard, Stonington, CT;
Jose Luis Riechmann, Pasadena, CA;
Robert A. Creelman, Castro Valley, CA;
Oliver Ratcliffe, Oakland, CA;
Roger D. Canales, San Francisco, CA;
Peter P. Repetti, Emeryville, CA;
Roderick W. Kumimoto, San Bruno, CA;
Neal I. Gutterson, Oakland, CA;
T. Lynne Reuber, San Mateo, CA;
Omaira Pineda, Vero Beach, FL;
Bradley K. Sherman, Berkeley, CA;

Assignment For Published Patent Application

Mendel Biotechnology, Inc., Hayward, CA

Power of Attorney: The patent practitioners associated with Customer Number **47550**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/295,403 11/15/2002 ABN
which is a DIV of 09/394,519 09/13/1999 ABN
which claims benefit of 60/101,349 09/22/1998
and claims benefit of 60/103,312 10/06/1998
and claims benefit of 60/108,734 11/17/1998
and claims benefit of 60/113,409 12/22/1998
This application 10/714,887
is a CIP of 10/302,267 11/22/2002 PAT 7,223,904
which is a DIV of 09/506,720 02/17/2000 ABN

which claims benefit of 60/120,880 02/18/1999
and claims benefit of 60/121,037 02/22/1999
and claims benefit of 60/124,278 03/11/1999
and claims benefit of 60/129,450 04/15/1999
and claims benefit of 60/135,134 05/20/1999
and claims benefit of 60/144,153 07/15/1999
and claims benefit of 60/161,143 10/22/1999
and claims benefit of 60/162,656 11/01/1999
This application 10/714,887
is a CIP of 10/286,264 11/01/2002
which is a DIV of 09/533,030 03/22/2000 ABN
which claims benefit of 60/125,814 03/23/1999
This application 10/714,887
is a CIP of 10/278,173 10/21/2002 ABN
which is a DIV of 09/533,392 03/22/2000 ABN
which claims benefit of 60/125,814 03/23/1999
This application 10/714,887
is a CIP of 09/533,029 03/22/2000 PAT 6,664,446
which claims benefit of 60/125,814 03/23/1999
This application 10/714,887
is a CIP of 10/278,536 10/22/2002 ABN
which is a DIV of 09/532,591 03/22/2000 ABN
which claims benefit of 60/125,814 03/23/1999
This application 10/714,887
is a CIP of 09/713,994 11/16/2000 ABN
which claims benefit of 60/166,228 11/17/1999
and claims benefit of 60/197,899 04/17/2000
and claims benefit of 60/227,439 08/22/2000
This application 10/714,887
is a CIP of 10/675,852 09/30/2003
and is a CIP of 09/934,455 08/22/2001 ABN
which is a CIP of 09/713,994 11/16/2000 ABN
and is a CIP of 09/837,944 04/18/2001 ABN
and claims benefit of 60/227,439 08/22/2000
This application 10/714,887
is a CIP of 10/225,068 08/09/2002 PAT 7,193,129
which claims benefit of 60/310,847 08/09/2001
and claims benefit of 60/336,049 11/19/2001
and claims benefit of 60/338,692 12/11/2001
and is a CIP of 09/837,944 04/18/2001 ABN
and is a CIP of 10/171,468 06/14/2002 ABN
This application 10/714,887
is a CIP of 10/225,066 08/09/2002 PAT 7,238,860
which claims benefit of 60/310,847 08/09/2001
and claims benefit of 60/336,049 11/19/2001
and claims benefit of 60/338,692 12/11/2001
and is a CIP of 09/837,944 04/18/2001 ABN
and is a CIP of 10/171,468 06/14/2002 ABN
This application 10/714,887
is a CIP of 10/225,067 08/09/2002 PAT 7,135,616
which claims benefit of 60/310,847 08/09/2001
and said 10/225,067
claims benefit of 60/336,049 11/19/2001
and claims benefit of 60/338,692 12/11/2001
and is a CIP of 09/837,944 04/18/2001 ABN
and is a CIP of 10/171,468 06/14/2002 ABN
This application 10/714,887
is a CIP of 09/823,676 03/30/2001 PAT 6,717,034
and is a CIP of 10/669,824 09/23/2003
and is a CIP of 10/112,887 03/18/2002 ABN

and is a CIP of 10/412,699 04/10/2003
which is a CIP of 09/489,376 01/21/2000 ABN
which claims benefit of 60/116,841 01/22/1999
and said 10/412,699 04/10/2003
is a CIP of 09/819,142 03/27/2001 ABN
and is a CIP of 10/374,780 02/25/2003
This application 10/714,887
is a CIP of 10/374,780 02/25/2003
and is a CIP of 10/666,642 09/18/2003 PAT 7,196,245
which claims benefit of 60/411,837 09/18/2002
and claims benefit of 60/434,166 12/17/2002
and claims benefit of 60/465,809 04/24/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/714,887

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Plant transcriptional regulators of drought stress

Preliminary Class

800

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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355 GOODWILL DRIVE
BOX 400
GARSON, ON, P3L 1S7 CA CANADA

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Wilson Gardner :
Application No. 10/714,956 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. GARDNER :

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**.

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

This matter is being forwarded to Technology Center AU 3617 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Catalyst Law Group, APC
9710 Road, Suite S-170
San Diego, CA 92121

In re Application of :
Alan H. Brown et al. :
Application No. 10/715,006 : DECISION ON PETITION
Filed: November 17, 2003 : TO WITHDRAW
Attorney Docket No. 1477-002-US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Alan H. Brown**
10 Castle Hill Lane
Bridgewater, CT 06752-1128

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TECHNOLOGY CENTER 3600

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STUART D. SWORK
JENKENS & GILCHRIST, P.C.
3200 FOUNTAIN PLACE
1445 ROSS AVENUE
DALLAS, TX 75202-2799

In re application of
Gary D. Childres et al.
Application No. 10/715,007 : DECISION ON REQUEST
Filed: November 17, 2003 : FOR WITHDRAWAL OF
For: RETRACTABLE TERRACE CANOPY : ATTORNEY

This is a decision on the request filed on June 28, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/715,007

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), The request to withdraw as attorney in the above-identified application is not approved because the attorney signing the request does not now have power of attorney in this application.

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

KJD/slb: 03/16/06

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/30/04

Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2518

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/715010 received on 04/06/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

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

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Jang-won Moon, et al :
Application No. 10/715,015 : DECISION GRANTING PETITION
Filed: November 17, 2003 :
Attorney Docket No. 5649-1098 :

This is a decision on the petition filed March 12, 2004, requesting that the above-identified application be accorded a filing date of November 17, 2003,instead of the presently accorded date of November 18, 2003.

Petitioner alleges that the application was deposited in "Express Mail" Service with the U. S. Postal Service (USPS) on November 17, 2003. In support, petitioners provide a copy of the Express Mail label, receipt No. EV193631194US. The same Express Mail receipt number was referred to in the original transmittal letter found in the file. It is noted that while the "date in" on the copy of the Express Mail label is blank, it includes an "USPS" receipt stamp dated November 17, 2003.

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 17, 2003.

The petition is granted.

The application is being referred to Initial Patent Examination Division for correction of the filing date to **November 17, 2003**.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LERNER GREENBERG STEMER
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Steven Charles Bosanac :
Application No. 10/715,021 :
Filed: November 17, 2003 :
Attorney Docket No. GLM-1061 :

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 7, 2005.

The request is **APPROVED**.

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

The request was signed by Laurence A. Greenberg behalf of all attorneys of record who are associated with customer No. 24131.

All attorneys/agents associated with the Customer Number 24131 have been withdrawn.

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

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

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

This application is being referred to Publishing Division.

David Bucci
Petitions Examiner
Office of Petitions

cc: STEVEN CHARLES BOSANAC
871 S.E. 14TH AVENUE
DEERFIELD BEACH, FL 33441

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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R.D. JOHNSON & ASSOCIATES, P.C.
20 PICKERING STREET
P.O.BOX 920353
NEEDHAM, MA 02492

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Lenoir E. Zaiser, et al. :
Application No. 10/715,031 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. 2173.1004-003 :

This is a decision in response to the petition, filed February 20, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 31, 2007. A Notice of Abandonment was mailed on January 7, 2008. In response, on February 20, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3771 for appropriate action by the Examiner in the normal course of business on the reply received February 20, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/Sherry D. Brinkley/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Petrie et al. :
Patent No. 6,882,904 : ON PETITION
Application No. 10/715,038 :
Filed: November 17, 2003 :
Issued: April 19, 2005
Attorney Docket No. ABDS-0008/B000471

This is a decision on the petition under 37 C.F.R. § 3.81, filed May 4, 2005, to accept the correction of the assignee data.

The request under 37 CFR 3.81 is **GRANTED**.

Effective June 25, 2004, the practice relating to issuance of a patent to an assignee was modified by requiring that, after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, where the assignment data is submitted after payment of the issue fee, the patent document will not include the assignment information. Therefore, as 37 CFR 3.81(b) was modified to provide for issuance of the patent to the assignee, the practice of waiving the rule (37 CFR 3.81(a)) under 37 CFR 1.183 is longer necessary and has been eliminated.

37 CFR 3.81(b), as modified, reads:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JOHN BRUCKNER PC
5708 BACK BAY LANE
AUSTIN, TX 78739

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MAY 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Vladimir I. Merkulov et al :
Application No. 10/715,057 : DECISION GRANTING PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. UBAT1310-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 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 nonfinal Office action mailed July 28, 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 October 29, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the outstanding Office action of July 28, 2005; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of July 28, 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 3676 for appropriate action in the normal course of business on the reply received to the nonfinal Office action.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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TERENCE P. O'BRIEN
WILSON SPORTING GOODS CO.
8700 W. BRYN MAWR AVENUE
CHICAGO, IL 60631

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Walter W. C. Shen et al :
Application No. 10/715,068 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. WR0177 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 13, 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 14, 2004.

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

This matter is being referred to the Office of Initial Patent Examination 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
Alexandria, VA 22313-1450
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JANSSON, SHUPE & MUNGER, LTD
245 MAIN STREET
RACINE, WI 53403

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JAN 19 2005

OFFICE OF PETITIONS

In re Application of :
Liken, et al. :
Application No. 10/715,075 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. TI-125US :

This is a decision on the petition under 37 CFR 1.53, filed December 13, 2004, requesting that the above-identified application be accorded a filing date of November 17, 2003, including page 19 of the specification.

The application was filed on November 17, 2003. However, on October 13, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 19 of the specification appears to have been omitted.

In response, on December 13, 2004, the instant petition and a copy of page 19 of the specification were submitted. The petition was accompanied by a copy of applicant's postcard receipt that acknowledges receipt of 20 pages of application on November 17, 2003. A review of the application file indicates the presence of nineteen (19) pages of application (specification, claims and abstract). It is assumed that page 19 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee has not been charged.

This application will be returned to OIPE for further processing with a filing date of November 17, 2003, using the copy of page 19 of the specification, supplied on December 13, 2004.

Telephone inquiries concerning this matter may 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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Alexandria, VA 22313-1450
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DIW Jan-06

DR. JOEL H. GERSHENSON
BLGD. 32 UNIT 103
7331 N.W. 18th ST.
MARGATE FL 33063

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Joel H. Gershenson :
Application No. 10/715,076 : ON PETITION
Filed: 17 November, 2003 :
For: PROTECTIVE TRAUMA DEVICE :
STRAPS FOR HELMETS :

This is a decision on the paper filed on 13 December, 2004, which is treated as a petition requesting withdrawal of the holding of abandonment under 37 CFR 1.181.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The petition is **dismissed**.

The application became abandoned on 27 November, 2004, for failure to timely file a response to the non-final Office action mailed on 26 July, 2004, which set a three (3) month shortened statutory period for reply. On 22 October, 2004, a one-month extension of time in accordance with 37 CFR 1.136(a) was obtained. No reply having been received, however, Notice of Abandonment was mailed on 27 June, 2005.

Petitioner asserts that a response was timely mailed to the USPTO via Express Mail on 24 November, 2004, but was returned as undeliverable to petitioner. In support, petitioner has provided a copy of the Express Mail label for the response showing that the reply was addressed to: U.S. Trademark and Patents, Randolph Building, 401 Dulany Street, Room 7C-79, Alexandria VA 22313, Mr. Lindsey, Rodney.

Petitioner's argument has been considered, but is not persuasive. On 24 November, 2004, the address for patent mail sent to the USPTO by the USPS was: Mail Stop _____, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.[1] The address placed on the Express Mail customer label was not a correct

[1] 1288 O.G. 41 (2 November, 2004).

address. As such, in accordance with 37 CFR 1.1(a) and 1.10(e), the correspondence allegedly mailed to the USPTO on 24 November, 2004, was not properly addressed.

37 CFR 1.135 states, in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 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) must include such complete and proper reply as the condition of the application may require.

In the instant case it is clear that petitioner did not file a timely reply in that the correct address for sending correspondence to the Office was not used. As the showing of record is that the correspondence was not received in the Office due to an error on the part of petitioner in providing an incorrect address for the USPTO, the holding of abandonment will not be withdrawn.

The petitioner may want to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. Extensions of this time period are available in accordance with the provisions of 37 C.F.R. 1.136(a).

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DNW Jan-06

DR. JOEL H. GERSHENSON
BLGD. 32 UNIT 103
7331 N.W. 18th ST.
MARGATE FL 33063

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OFFICE OF PETITIONS

In re Application of	:	
Joel H. Gershenson	:	
Application No. 10/715,076	:	ON PETITION
Filed: 17 November, 2003	:	
For: PROTECTIVE TRAUMA DEVICE STRAPS FOR HELMETS	:	

This is a supplemental decision on the paper filed on 13 December, 2004, which is treated as a petition requesting withdrawal of the holding of abandonment under 37 CFR 1.181.

The petition is **granted**.

The application became abandoned on 27 November, 2004, for failure to timely file a response to the non-final Office action mailed on 26 July, 2004, which set a three (3) month shortened statutory period for reply. On 22 October, 2004, a one-month extension of time in accordance with 37 CFR 1.136(a) was obtained. No reply having been received, however, Notice of Abandonment was mailed on 27 June, 2005.

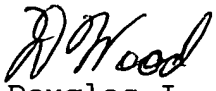
Petitioner asserts that a response was timely mailed to the USPTO via Express Mail on 24 November, 2004, but was returned as undeliverable to petitioner. In support, petitioner has provided a copy of the Express Mail label for the response showing that the reply was addressed to: U.S. Trademark and Patents, Randolph Building, 401 Dulany Street, Room 7C-79, Alexandria VA 22313, Mr. Lindsey, Rodney.

In light of Examiner Lindsey's statement that the applicant utilized an address given to him by the examiner, but the reply was not received in the Office, the petition may be favorably considered.

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

The application is being forwarded to Technology Center 3765 for further processing.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Dobrowolski :
Application No. 10/715,087 : DECISION ON PETITIONS
Filed: September 25, 2001 :
Attorney Docket No. A01588US :
For: SURFACTANT-CONTAINING
INSULATION BINDER

This is a decision on the petition titled, "PETITION UNDER 37 CFR 1.47(a) & 1.181," filed June 15, 2004. The petition will be treated (1) under 37 CFR 1.47(a) for accordation of Rule 47 status to the above-identified application, (2) under 37 CFR 1.48(a) to amend the inventorship by the addition of Liang Chen, Jay W. Hinze, and William G. Hager, and (3) under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)((2), which requires each inventor being added to submit a lack of deceptive intent statement and 1.48(a)(3), which requires each inventor to execute the declaration.

The petition under 37 CFR 1.47(a) is dismissed.

The petition under 37 CFR 1.48(a) to amend the inventive entity is dismissed.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) and 1.48(a)(3) is granted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a) and 1.48(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The first declaration, filed on March 8, 2004 set the inventive entity as Richard Dobrowolski. The instant petition was filed on June 15, 2004 and seeks to add three more inventors – Liang Chen, Jay W. Hinze, and William G. Hager – and obtain Rule 47 status based on their refusal to sign the declaration. However, once the inventive entity has been set by an initial declaration, a

petition under 37 CFR 1.48 is required to change it.

Therefore, the instant petition will be treated under 37 CFR 1.47(a), under 37 CFR 1.48(a), and under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) and 1.48(a)(3).

PETITION UNDER 37 CFR 1.47(a)

The above-identified application was filed on November 17, 2003 without an executed oath or declaration. Accordingly, on February 12, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. In response, petitioners submitted a declaration executed by Richard Dobrowolski on March 8, 2004.

Petitioners filed a petition under 37 CFR 1.47(a) on June 15, 2004. The petition signed by Attorney Robert W. Stevenson and accompanying exhibits establish that the legal representative of the non-signing joint inventors, Inger H. Eckert, was mailed and received a copy of the application and a declaration for the above-identified application, but Ms. Eckert, on behalf of her clients, expressly refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is not acceptable because it only lists Mr. Dobrowolski as an inventor. Information for all inventors must be listed on a new declaration. This information includes: Given Name(s), Family Name, Residence, Citizenship, and Mailing Address. Mr. Dobrowolski must execute the new declaration. The non-signing inventors signature blocks should be left blank.

Pursuant to petitioners' authorization, deposit account no. 18-1850 will be charged a $130.00 petition fee for filing a petition under 37 CFR 1.47(a).

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

PETITION UNDER 37 CFR 1.48(a) & PETITION UNDER 37 CFR 1.183 TO WAIVE 37 CFR 1.48(a)(2) and 1.48(a)(3)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioners have established that the non-signing inventors, through their attorney, have refused to execute the declaration for patent application. Petitioners have shown (1) that this is an extraordinary situation where (2) justice requires waiver of the rules. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) and 1.48(a)(3) is **granted**.

Petitioners should not be required to obtain the non-signing inventors' cooperation. However, petitioners have not satisfied the requirements of 37 CFR 1.48(a)(3) because the declaration itself is flawed. As stated above in the Rule 47 portion of this decision, the declaration fails to include identifying information for all joint inventors.

In addition, if Mr. Dobrowolski has executed an assignment to Rohm Haas Company, an individual with proper authority should provide written consent to the requested correction in inventorship. Please clarify in any reconsideration petition whether or not there is an assignee of the invention.

The petition under 37 CFR 1.48(a) is **dismissed**.

Once petitioners submit an acceptable declaration and clarify the assignee existence issue, the petition under 37 CFR 1.48(a) and the petition under 37 CFR 1.47(a) will be granted.

Pursuant to petitioners' authorization, deposit account no. 18-1850 will be charged a $130 petition fee for filing a petition under 37 CFR 1.48 and a $130.00 petition fee for filing a petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) and (a)(3).

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

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand:
Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX:
(703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

09/08/04

James Edwards
Alston & Bird
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/715093 received on 08/16/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

05/11/04

Alston & Bird LLP
James C. Edwards
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/715094 received on 04/05/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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United States
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Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/715095 received on 03/22/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Vosburgh, et al. : DECISION ON PETITION
Application No. 10/715,123 :
Filed: November 17, 2003 :
Atty. Dkt. No.: 9372-2 :

This decision is in response on the "PETITION TO ACCORD THE PROPER FILING DATE," filed March 22, 2004, under 37 CFR 1.10(c) to accord the above-identified application a filing date of November 4, 2004.

Petitioner alleges that the application was deposited in Express Mail service November 17, 2003. As supporting evidence, petitioner has provided a copy of an Express Mail label bearing tracking number EL318416775US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file) and a "date-in" of November 17, 2003.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of November 17, 2003 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 17, 2003.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHOOK, HARDY & BACON L.L.P.
(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY MO 64108-2613

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Ramani et al.	:	
Application No. 10/715,136	:	DECISION GRANTING PETITION
Filed: November 18, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MFCP.110234	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 31, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 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 application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority

under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 2192 for appropriate action on the amendment filed March 31, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Walsh
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
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/715,136	11/18/2003	2192	1220	MFCP.110234	33	4

CONFIRMATION NO. 1912

CORRECTED FILING RECEIPT

45809
SHOOK, HARDY & BACON L.L.P.
(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

OC00000029600122

Date Mailed: 04/25/2008

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

Applicant(s)

Sundaram Ramani, Redmond, WA;
Robert A. Relyea, Bellevue, WA;
Jeffrey L. Bogdan, Bellevue, WA;

Power of Attorney: The patent practitioners associated with Customer Number 05251

Domestic Priority data as claimed by applicant

This application is a CIP of 10/377,313 02/28/2003 PAT 7,120,618

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/715,136**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for compiling markup files

Preliminary Class

717

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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AUG 16 2007

TECHNOLOGY CENTER 3600

In re Patent No. WRIGHT ET AL.
Issue Date: 10/24/2006
Appl No.: 10/715,156
Filed: November 17, 2003
For: Golf Club Holding Rack

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed December 29, 2006 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.

Brian Glessner
Supervisory Patent Examiner
Art Unit 3676
Technology Center 3600
571-272-6843

LAURA M. HAGAN
1025 STATE STREET
BOWLING GREEN, KY 42101

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Paper No. None

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

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Olof Schybergson et al. :
Application No. 10/715,161 : DECISION ON PETITION
Filed: November 17, 2003 :
Attorney Docket No.: :
042933/269783 :
Title: TOPOGRAPHIC PRESENTATION :
OF MEDIA FILES IN A MEDIA DIARY :
APPLICATION :

This is a decision on the petition filed August 9, 2004, requesting that Figures 9 and 10 be accorded a filing date of November 17, 2003, as part of the original disclosure.

The application was deposited on November 17, 2003. However, on July 29, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application (notice)", stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figures 9 and 10. The notice further indicated that an executed oath or declaration, along with the associated surcharge, would be required. The notice set a two-month period for response.

In response, on August 9, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Figures 9 and 10, along with a copy of applicants' postcard receipt acknowledging receipt of "No. of Drawing Sheets 10" in the United States Patent and Trademark Office (Office) on

November 17, 2003. Applicants request that Figures 9 and 10 be accorded a filing date of November 17, 2003 as part of the original disclosure.

It is noted that 8 sheets of drawings have been located in the electronic file, containing figures 1 - 8.

Upon review of the record, the above-mentioned figures have not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 17, 2003 included Figures 9 and 10, and the two sheets containing these figures were subsequently misplaced in the Office.

Therefore, the application, including Figures 9 and 10, was complete on filing and these four figures are entitled to a filing date of November 17, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed July 29, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 17, 2003, using the original application papers filed on that date, as well as the Figures 9 and 10 submitted on August 9, 2004 and for indication in Office records that these figures were present on filing.

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

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

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SEP 1 2004

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OFFICE OF PETITIONS

In re Application of
Olof Schybergson et al.
Application No. 10/715,161
Filed: November 17, 2003
Attorney Docket No.:
042933/269783
Title: TOPOGRAPHIC PRESENTATION OF MEDIA FILES IN A MEDIA DIARY APPLICATION

DECISION ON PETITION

This is a decision on the petition filed August 9, 2004, requesting that Figures 9 and 10 be accorded a filing date of November 17, 2003, as part of the original disclosure.

The application was deposited on November 17, 2003. However, on July 29, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application (notice)", stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figures 9 and 10. The notice further indicated that an executed oath or declaration, along with the associated surcharge, would be required. The notice set a two-month period for response.

In response, on August 9, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Figures 9 and 10, along with a copy of applicants' postcard receipt acknowledging receipt of "No. of Drawing Sheets 10" in the United States Patent and Trademark Office (Office) on

DOCKETED
By
Date 9/1/04

November 17, 2003. Applicants request that Figures 9 and 10 be accorded a filing date of November 17, 2003 as part of the original disclosure.

It is noted that 8 sheets of drawings have been located in the electronic file, containing figures 1 - 8.

Upon review of the record, the above-mentioned figures have not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 17, 2003 included Figures 9 and 10, and the two sheets containing these figures were subsequently misplaced in the Office.

Therefore, the application, including Figures 9 and 10, was complete on filing and these four figures are entitled to a filing date of November 17, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed July 29, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 17, 2003, using the original application papers filed on that date, as well as the Figures 9 and 10 submitted on August 9, 2004 and for indication in Office records that these figures were present on filing.

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

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

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Patent And
Trademark Office

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PETITION DECISION

05/04/04

Alston & Bird LLP
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/715162 received on 04/13/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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STALLMAN & POLLOCK LLP
353 SACRAMENTO STREET
SUITE 2200
SAN FRANCISCO CA 94111

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JUL 26 2006
OFFICE OF PETITIONS

In re Application of :
Farrell :
Application No. 10/715,171 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. FRLL-710 :
For: RINSEABLE SPLASH SHIELD AND METHOD OF USE

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2006 (certificate of mailing April 25, 2006), to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 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 January 5, 2006. A Notice of Abandonment was mailed on April 17, 2006.

Petitioner has submitted an amendment in reply to the October 4, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 4, 2005 non-final Office action, and the required petition fee.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center AU 1723 for consideration of the reply filed on April 27, 2006 (certificate of mailing April 25, 2006).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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JUL - 9 2004

In re Application of	:	
Marshall L. Weingarden	:	
Serial No. 10/715,180	:	DECISION ON PETITION
Filed: May 4, 2004	:	TO MAKE SPECIAL
For: HUB POSTS FOR MOUNTING	:	
INFORMATION-BEARING DISKS:		

Applicant's petition, filed May 4, 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

Arthur Jacob
25 East Salem Street
P.O. Box 686
Hackensack, NJ 07602

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JONES DAY
222 Easr 41st Street
New York, NY 10017

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JUL 20 2006

OFFICE OF PETITIONS

In re Application of :
Joel R. STUDIN :
Application No. 10/715,183 : DECISION ON PETITION
Filed: November 17, 2003 : TO WITHDRAW
Attorney Docket No. 11214-019-999 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-2753.

David Bucci
Petitions Examiner
Office of Petitions

Pet. Dec.

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Mailed: MAY 18 2004 CST

In re application of	:	
Lawrence Conaway et al	:	
Serial No. 10/715,186	:	DECISION ON
Filed: November 17, 2003	:	PETITION
For: METHOD AND APPARATUS FOR SEPARATING BITUMEN FROM PARTICULATE SUBSTRATES	:	

This is a decision on the petition filed November 17, 2003 requesting that the above-identified application be granted Special Status under sections 708.02(V) and (VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is granted because the criteria set forth in MPEP 708.02(V) and (VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

Robert C. Brown
1207 Sandhurst Drive
Tallahassee FL 32312

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Paper No. 04282005

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MAY 26 2005

OFFICE OF PETITIONS

Robert C. Brown
1207 Sandhurst Drive
Tallahassee, FL 32312

In re Application of
Conaway.
Application No. 10/715186
Filed: November 17, 2003
Attorney Docket No. RB-0108

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 2/4/2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned for failure to reply to the nonfinal office action mailed 6/30/2004, which set a shortened statutory period for reply of three months. As no reply was received, and no extensions of time were obtained, this application became abandoned on Setember 30, 2004. A notice of Abandonment was mailed January 27, 2005.

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

This application is being referred to TC 1723 for consideration of the reply filed February 4, 2005.

Any questions concerning this matter may be directed to Gene Kim at (571) 272-6052, or in his absence, the undersigned at (571)272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Trademark Office

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PETITION DECISION

05/04/04

Alston & Bird LLP
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/715187 received on 04/13/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of :
Andrew WEAVER, et al :
Application No. 10/715,209 : DECISION ON PETITION
Filed: November 18, 2003 : TO WITHDRAW
Attorney Docket No. 08975-422001 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

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

Scott R. Boalick has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 3 0 2005

TECHNOLOGY CENTER 3600

United States Army Legal Services Agency
Suite 527
901 North Stuart Street
Arlington, VA 22203-1837

In re Application of :
HEFLIN et al. :
Application No.: 10/715,243 :
Filed: November 18, 2003 :
For: NON-PYROTECHNIC REMOTE-CONTROLLED PARACHUTE JETTISON DEVICE :

DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR 1.181

This is in response to applicants' petition under 37 CFR 1.181 filed July 15, 2005 requesting withdrawal of the finality of the Office action mailed June 6, 2005 as being premature.

The petition is **DENIED.**

Applicants allege that the final rejection mailed June 6, 2005 is premature because the Office action included a new ground of rejection neither necessitated by applicants' amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record reveals that a first Office action was mailed January 13, 2005 in which the examiner rejected claims 1 and 6-13 under 35 U.S.C. 103(a) as being unpatentable over Underwood et al. in view of Kenzie. In the rejection, the examiner took official notice that remote control means are well known in this day and age and that one skilled in the art would have used remote control means to control the cutting of the extraction line.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new grounds of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

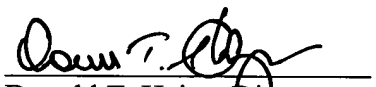
MPEP 2144.03(c) sets forth that if applicants challenge a factual assertion as not properly officially noticed or not properly based upon common knowledge, the examiner must support the findings with adequate evidence.

MPEP 2144.03(d) sets forth that if the examiner adds a reference in the next Office action after applicants' rebuttal, and the newly added reference is added only as directly corresponding evidence to support the prior common knowledge finding, and it does not result in a new issue or constitute a new grounds of rejection, the Office action may be made final.

A further review of the record reveals that a response was received March 10, 2005 in which applicants traversed the examiner's assertion of official notice. Claims 1 and 6-13 were finally rejected under 35 U.S.C. 103(a) as being unpatentable over Underwood et al. in view of Kenzie and Tillman in an Office action mailed June 6, 2005. In that Office action, the examiner introduced Tillman to show that remote control means to control distant actuators are well known in the art.

In view of the fact that the examiner introduced Tillman as directly corresponding evidence to support the prior common knowledge finding and did not rely on any other teachings in the reference, the finality of the Office action mailed June 6, 2005 is proper and will not be withdrawn. The period for response to that action continues to run from the mailing date of the action.

Any comments or concerns related to this decision should be forwarded to Teri P. Luu at (571) 272-7045.



Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

DH/tl: 7/28/05

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

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of
VIG, Rakesh et al.
Application No. 10/715,244
Filed: November 17, 2003
Attorney Docket No. **VTI-114.8(B)(CIP)**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009 and re-submitted on February 04, 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 Hans-Peter Hoffmann on behalf of all attorneys of record who are associated with customer No. 47670. All attorneys/agents associated with the Customer Number 47670 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed February 02, 2009 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **RAKESH VIG**
15 PARK PLACE
DURHAM CT 06422

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

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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JACKSON WALKER LLP
2435 NORTH CENTRAL EXPRESSWAY
SUITE 600
RICHARDSON, TX 75080

COPY MAILED

DEC 15 2004

OFFICE OF PETITIONS

In re Application of :
Gilbert MacDonald et al :
Application No. 10/715,259 : NOTICE
Filed: November 17, 2003 :
Attorney Docket No. 101950.001 :

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) 272-3218.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : JANUARY 29, 2007

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10715279 Patent No.: ~~7133952B2~~ 7067941

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE

2836
Art Unit

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
John STEEDLY :
Application No. 10/715,299 : DECISION ON PETITION
Filed: November 17, 2003 : TO WITHDRAW
Attorney Docket No. CLAY-0001-CP1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 20, 2006.

The request is **NOT APPROVED**.

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Pedersen & Company, PLLC
P.O. Box 2666
Boise, ID 83701

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Novak Druce + Quigg LLP
CityPlace Tower, 525 Okeechobee Blvd.
Fifteenth-Floor
WEST PALM BEACH, FL 33401

Mail Date: 04/21/2010

Applicant	: Keith A. Thuerk	: DECISION ON REQUEST FOR
Patent Number	: 7647378	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/715,313	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/715,314	11/17/2003	3723	1352	5649-1177	8	38	6

CONFIRMATION NO. 5102

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

CORRECTED FILING RECEIPT

OC000000012316418

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)

Moo-Yong Park, Gyeonggi-do, KOREA, REPUBLIC OF;
Sang-Rok Hah, Seoul, KOREA, REPUBLIC OF;
Jong-Gyoon Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Hong-Seong Son, Gyeonggi-do, KOREA, REPUBLIC OF;
Ja-Hyung Han, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-01690 01/10/2003

If Required, Foreign Filing License Granted: 02/13/2004

Projected Publication Date: 07/15/2004

Non-Publication Request: No

Early Publication Request: No

Title

Polishing apparatus and related polishing methods

Preliminary Class

451

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/2006

TO SPE OF : ART UNIT 2800 (2857)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,039,555

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 claims 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:

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

5/26/06

SPE **Art Unit**

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OFFICE OF PETITIONS

VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON TX 77002-6760

In re Application of :
Smith et al. :
Application No. 10/715,337 : DECISION ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. KER020/4-1DIVUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed December 15, 2008. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on June 16, 2009. A Notice of Abandonment was mailed August 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR

1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, petitioner has submitted $400.00 towards the $405.00 Request for Continued Examination (RCE) fee. Accordingly, petitioner's deposit account has been charged the additional $5.00 shortage.

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

This matter is being referred to Technology Center 1651 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of
RAMACHANDRAN, Janakiraman et al.
Application No. 10/715,348
Filed: November 14, 2003
Attorney Docket No. **GANG-008**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

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

A review of the file record indicates that the power of attorney to Bozicevic, Field & Francis LLP has been revoked by the assignee of the patent application on August 06, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/715,348	11/14/2003	Janakiraman Ramachandran	GANG-008

CONFIRMATION NO. 2395

OC000000025364606

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 08/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2007.

- 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).

Michelle R. Eason

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
10/715,348	11/14/2003	Janakiraman Ramachandran	GANG-008

CONFIRMATION NO. 2395

OC000000025364681

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

Date Mailed: 08/14/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2007.

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

Michelle R. Eason

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

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Janakiraman Ramachandran et al. :
Application No. 10/715,348 : DECISION ON PETITION
Filed: November 14, 2003 :
Attorney Docket No. 021958-001510US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 Non-Final Rejection mailed, May 4, 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 August 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 an Amendment/Response after Non-Final Rejection, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay.

In additional to receiving a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37CFR 1.137(b), the United States Patent and Trademark Office received a payment of $820 for a four month extension of time on November 9, 2007.

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 $820 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

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

This application is being referred to Technology Center AU 1645 for appropriate action by the Examiner in the normal course of business on the reply received.

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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Alexandria, VA 22313-1450
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8/23/05

WK

Mailed:
In re application of : DECISION ON
Micheneau : PETITION
Serial No. 10/715,362 :
Filed: November 19, 2003 :
For: PROCESS FOR GENERATING A SEMI-SOLID SLURRY :

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed February 15, 2005, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the Proprietary Information Disclosure Statement (PIDS) filed February 16, 2005 be expunged and that the documents are appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/715,362

The image of the document will be removed from the Official file.

Jacqueline M. Stone

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

Leon Radomsky
Foley & Lardner LLP
Suite 500
3000 K Street NW
Washington, DC 20007

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

Mail Date: 04/21/2010

Applicant	: Jonathan Zanhong Sun	: DECISION ON REQUEST FOR
Patent Number	: 7602000	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/715,376	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
Maguire
Application No. 10/715,383
Filed: November 19, 2003
Attorney Docket No. 84720 2712 KAW

ON PETITION

This is a decision on the petition, filed February 19, 2004, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed February 13, 2004. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**. Any further reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The application was filed on November 19, 2003. On February 13, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figures 7-10 described in the specification appeared to have been omitted.

In response to the Notice, petitioner filed the present petition. Petitioner requests that Figures 7 - 10 be accorded a filing date of November 19, 2003 on the basis that 4 sheets of formal drawing figures, including Figures 7-10, were received in the Patent and Trademark Office (PTO) on November 19, 2003.

Unfortunately, the instant petition is incomplete. The supporting evidence cited in the petition, the stamped filing receipt, cannot be located. Petitioner is requested to submit another copy of the stamped filing.

The application file will be retained in the Office of Petitions until the stamped filing receipt is re-submitted

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Maguire :
Application No. 10/715,383 : ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. 84720 2712 KAW :
:

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed April 26, 2004, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed February 13, 2004.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on November 19, 2003. On February 13, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figures 7-10 described in the specification appeared to have been omitted.

Applicant's first petition, filed February 19, 2004, was dismissed on April 21, 2004 because the Office was not in possession of adequate evidence of Figures 7-10's November 19, 2003 filing. In response to the April 21, 2004 decision, petitioner filed the present reconsideration petition. Petitioner requests that Figures 7 -10 be accorded a filing date of November 19, 2003 on the basis that 4 sheets of drawing figures, including Figures 7-10, were received in the Patent and Trademark Office (PTO) on November 19, 2003.

In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 19, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 4 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 4 sheets of drawing figures were filed on November 19, 2003. MPEP 503. A review of the originally filed pages of drawings reveals that only 3 pages are present. Accordingly, the request is granted.

After the mailing of this decision, the application file will be returned to the Office of Initial Patent Examination for further processing, using the copy of Figures 7-10 (formal drawings) submitted with the first petition under 37 CFR 1.53(e), filed February 19, 2004.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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AUG 13 2008

In re Application of	:	
Shigeo Tanaka et al	:	
Application No. 10/715,390	:	DECISION GRANTING PETITION
Filed: November 19, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 032116	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 12, 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 July 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 26 2007

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON DC 20005-3096

In re Application of :
Endo, et al. :
Application No. 10/715,433 : ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. 60188-707 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 29, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice to File Corrected Application Papers, mailed March 21, 2007. This Notice set a sixty (60) day non-extendable period to submit corrected drawings. No drawings having been received, the application became abandoned on May 20, 2007. A Notice of Abandonment was mailed on June 22, 2007.

Petitioner contends that he did timely file corrected drawings. In support, petitioner has included a copy of a postcard receipt dated March 30, 2007, identifying the instant application, and itemizing a replacement sheet 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.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to the Office of Patent Publication for processing into a patent, using the replacement sheet of formal drawings shown to have been filed on March 30, 2007 (copy supplied with the instant petition).

Telephone inquiries regarding 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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Masayuki Endo et al	:	
Application No. 10/715,433	:	DECISION GRANTING PETITION
Filed: November 19, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60188-707	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/15/09 **Paper No.:** —

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/715441 Patent No.: 7591827B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: The request for correcting inventorship pursuant to 37 CFR 1.324 (by adding the inventor John Cvinar) has been approved.

Kathleen Sonnett 1/19/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

Mail Date: 04/20/2010

Applicant	: J. Donald Hill	: DECISION ON REQUEST FOR
Patent Number	: 7591827	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/715,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of	
Aguila, et al.	DECISION REFUSING STATUS
Application No. 10/715,519	UNDER 37 CFR 1.47(a)
Filed: February 4, 2004	
Atty. Dkt. No.: SPV-041.03	
For: METHOD OF TREATING ADDICTION OR DEPENDENCE USING A LIGAND FOR A MONOAMINE RECEPTOR OR TRANSPORTER	

This decision is in response to the petition under 37 CFR 1.47(a), filed December 8, 2004.

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

Petitioner has shown that inventor James Hauske has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
Irvine, et al. :
Application No. 10/715,572 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. 030064 :
For: APPARATUS AND METHOD FOR MULTIPLE DESCRIPTION ENCODING

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the final Office action mailed June 28, 2005, which set a shortened statutory period for reply of three (3) months. A three month extensionsof time under the provisions of 37 CFR 1.136(a) and an amendment after final were filed on December 28, 2005. The amendment after final failed to *prima facie* place this application in condition for allowance, as was explained in the January 23, 2006 advisory action. Accordingly, the application became abandoned on December 29, 2005. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Petitioners have submitted a Notice of Appeal in reply to the June 28, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 28, 2005 final Office action, and the required petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning 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 this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The Notice of Appeal filed May 5, 2006 has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, accompanied by the fee required by law, runs from the date of this decision.

The application file is being forwarded to Technology Center AU 2819 to await receipt of the appeal brief.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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AUG 05 2008

In re Application of :
Gary Dean SASSER et al. :
Application No. 10/715,576 : DECISION ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. 15436.249.42.2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 04, 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, October 30, 2006, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of October 30, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 2874 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Gary Dean Sasser	: DECISION ON REQUEST FOR
Patent Number	: 7594766	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/715,576	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1127** 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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APR 25 2007

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of :
David Walter Flynn :
Application No. 10/715,593 : ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. 550-488 :

This is a decision on the petition, filed April 24, 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 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2863 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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APR 18 2008

OFFICE OF PETITIONS

RADER FISHMAN & GRAUER, PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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APR 2008

OFFICE OF PETITIONS

In re Application of :
Kazuo Okada :
Application No. 10/715,598 : DECISION ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. SHO-0058 :

This is a decision on the petition, filed October 30, 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 **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of March 20, 2007. A Notice of Abandonment was mailed on October 16, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on July 18, 2007 of, *inter alia,* an amendment transmittal, an amendment under 37 CFR 1.111, a one month request for an extension of time under 37 CFR 1.136(a), with an authorization to charge $120 to the deposit account. A copy of the previously submitted reply accompanies the petition.

The Office acknowledges receipt of $120 for a one month extension of time submitted on July 18, 2007. However, the amendment filed on July 18, 2007 is not of record in the application file and has not been located.

MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the amendment and request for a one month extension of time was timely received in the USPTO, but lost thereafter.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on July 18, 2007.

This application is being referred to Technology Center Art Unit 3714, for appropriate action in the normal course of business on the reply received with petition.

Andrea Smith
Petitions Examiner
Office of Petitions

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LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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JUL 14 2008

OFFICE OF PETITIONS

Applicant: Okada
Appl. No.: 10/715,598
Filing Date: November 19, 2003
Title: GAMING MACHINE AND DISPLAY DEVICE THEREFOR
Attorney Docket: SHO-0058
Pub. No.: US 2004/0152501 A1
Pub. Date: August 5, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 20, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors as parts of the wrong application were published.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on June 20, 2007, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the contents of another application. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

course, unless the application is allowed and the patent issues before the application is republished.

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 Polutta at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

Manuel Valcarcel, Esq.
Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami FL 33131

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Charles E. Leffler et al. :
Application No. 10/715,610 :
Filed: November 18, 2003 : DECISION ON PETITION
Attorney Docket No. 7517-11 : UNDER 37 C.F.R. § 1.137(B)
Title: WASTEWATER TREATMENT :
SYSTEM :

This is a decision on the petition filed April 4, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The concurrently filed Change of Address has been entered and made of record, along with the Revocation of Power of Attorney. The concurrently filed **New Power of Attorney has not been entered** however, as the request was not compliant with 37 C.F.R. § 1.32(c)(3), in that the request failed to list the registration number of the patent practitioner listed thereon.

---

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.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed September 26, 2005, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on October 27, 2005. A Notice of abandonment was mailed on May 25, 2006.

With the present petition, Petitioner has submitted the petition fee, a response to the restriction requirement, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the restriction requirement that was received with the present petition can be processed.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOWDITCH & DEWEY, LLP
311 MAIN STREET
P.O. BOX 15156
WORCESTER MA 01615-0156

COPY MAILED

DEC 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Leffler et al.	:	
Application No. 10/715,610	:	DECISION ON PETITION
Filed: November 18, 2003	:	
Attorney Docket No. 306988.3000-100	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 4, 2009, as required by the Notice of Allowance and Fee(s) Due mailed February 3, 2009. Accordingly, the date of abandonment of this application is May 5, 2009. A Notice of Abandonment was mailed May 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

The file is now being forwarded to Technology Center 1797 for consideration and review of the Reply To Office Communication filed October 23, 2009 with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petition

Pet. Dec.

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application No. 10/715,618	
Filed: November 18, 2003	Group Art Unit 1722
Applicants: Paul Philip BROWN et al.	Examiner: HEITBRINK, T
For: ADJUSTMENT OF RELATIVE POSITIONS OF MACHINE COMPONENTS	Attorney Dkt. No. 155-14
	Confirmation No. 4849

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

PETITION TO MAKE SPECIAL BASED UPON APPLICANT'S AGE

Applicants petition that the above-identified application be granted special status for accelerated examination in accordance with 37 CFR 1.102(c) and MPEP Sec. 708.02, part IV.

Co-Applicant Jens Ole Sorensen became 65 years of age on May 11, 2004. His Declaration stating his age and his date and place of birth is attached hereto.

No petition fee is required for a petition to make special based upon an applicant's age.

Respectfully submitted,

Dated 9-29-04

Edward W. Callan
Attorney for Applicants
Attorney Registration No. 24,720

Customer No. 22653
3830 Valley Centre Drive, No. 705, PMB 452
San Diego, California 92130

Telephone: (858) 259-5533
Facsimile: (858) 259-5537
Email: ecallan1@san.rr.com

SN 10/715618

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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APR 16 2007

OFFICE OF PETITIONS

In re Patent No. 7,122,655	:	
Mendelsohn et al.	:	DECISION ON REQUEST FOR
Issue Date: October 17, 2006	:	RECONSIDERATION OF
Application No. 10/715,632	:	PATENT TERM ADJUSTMENT
Filed: November 17, 2003	:	
Atty Docket No. 00398/518002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed December 13, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from one hundred twelve (112) days to two hundred thirty-two (232) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) 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 October 17, 2006, application No. 10/715,632 matured into Patent No. 7,122,655. The instant request for reconsideration filed December 13, 2006, 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 112 days. The PTA of 232 days was reduced by 120 days pursuant to 37 CFR § 1.704(c)(10) for the submission of drawings after the mailing of the notice of allowance.

There is no dispute that drawings were filed on May 10, 2006 after the mailing of the notice of allowance on July 7, 2005. However, patentees argue that no reduction is warranted for the filing of these drawings as they were filed in response to a Notice and the Notice was the first request for formal drawings and Applicants promptly replied. Furthermore, during prosecution, applicants filed a Petition to Accept Color Drawings and replacement copies of Figures 2D and 6B in response to an Office Notice. Furthermore, the Office subsequently issued a Notice of Allowability on July 7, 2005, in which the drawings filed on November 17, 2003 were accepted. Finally, applicants submit that compliance with the Notice after payment of the issue fee was not a failure to engage in reasonable efforts to conclude prosecution, as the Office expressly indicated to Applicants during prosecution that the drawings were acceptable.

Patentees' arguments have been considered, but are not persuasive. The filing of drawings after the mailing of a Notice of Allowance is properly a basis for reduction of patent term adjustment.

37 CFR § 1.704(c)(10) provides that:

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;

Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Filing of any drawings after allowance will be

treated as a failure to engage in reasonable efforts to conclude prosecution.

Moreover, it is undisputed that patentees never disputed the accuracy of the Notice requiring drawings. Further, such drawings were required by the regulations. See 37 CFR 1.84. For example, the views of the drawings were not labelled separately or properly (i.e., "Figure 2A" and "Figure 2B" were labelled jointly as Figure 2 with an A and a B associated with each). No notice from the Office was required for applicants to be aware that their drawings failed to be in compliance with 37 CFR 1.84.

In order to avoid this failure to engage in reasonable efforts to conclude prosecution of the application, patentees should have filed formal drawings in compliance with 37 CFR 1.84(p)(5) prior to the mailing of the notice of allowance, instead of waiting for a notice from the Office. The drawings filed November 17, 2003 were formal but did not in compliance for issuance of the patent. (The replacement drawing sheets filed May 21, 2004 did not correct this deficiency).

Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by the lesser number of days, 120, counting the number of days in the period beginning on the date the drawings were filed, May 10, 2006, and ending on the date of issuance of the patent, October 17, 2006.

In view thereof, the reduction of 120 days was proper.

It is concluded that the patent properly issued with a revised Patent Term Adjustment of eleven (112) days.

Receipt is acknowledged of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/05/07

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/715638** Patent No.: **6890254**

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: _____

ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER
SPE

3714
Art Unit

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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
10/715,664	11/18/2003	2811	1230	5649-1175	17	36	5

CONFIRMATION NO. 5373

UPDATED FILING RECEIPT

D. Scott Moore, Esq.
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

OC000000012167549

Date Mailed: 03/24/2004

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

Applicant(s)

Sung-Min Kim, Incheon, KOREA, REPUBLIC OF;
Dong-Gun Park, Gyeonggi-do, KOREA, REPUBLIC OF;
Chang-Sub Lee, Gyeonggi-do, KOREA, REPUBLIC OF;
Jeong-Dong Choe, Gyeonggi-do, KOREA, REPUBLIC OF;
Shin-Ae Lee, Seoul, KOREA, REPUBLIC OF;
Seong-Ho Kim, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2003-0003807 01/20/2003

If Required, Foreign Filing License Granted: 02/26/2004

Projected Publication Date: 07/22/2004

Non-Publication Request: No

Early Publication Request: No

Title

Double gate MOS transistors and methods of manufacturing double gate MOS transistors

Preliminary Class

257

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070618

DATE : June 18, 2007

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction on Patent No.: 7,175,761

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:

DO NOT add claim 18 because applicants agreed to the cancellation of the claim in an examiner's amendment.

(Please enter the amendments to columns 7 and 8 as they relate to spelling errors and informalities.)

SPE: David Sample Art Unit 1723

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YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

Mail Date: 04/21/2010

Applicant	: Robert D. Lord	: DECISION ON REQUEST FOR
Patent Number	: 7673062	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/715,694	: OF WYETH
Filed	: 11/18/2003	:
		:

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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100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 61629-6490

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OFFICE OF PETITIONS

In re Patent No. 7,017,674 :
Issue Date: March 28, 2006 :
Application No. 10/715,712 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. 02-279 :

This is a decision on the petition filed May 22, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

COPY

PATENT

Attorney Docket No.: DB000929-000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Jones	**Examiner:**	Not yet assigned
Serial No.:	10/124,021	**Art Unit:**	Not yet assigned
Filed:	16 April 2002		

Entitled: METHOD OF DETERMINING LIBRARY PARAMETERS USING TIMING SURFACE PLANARITY

ADDENDUM -- Properly Empowered Representative of the Rule 1.47 Applicant

Name:	Michael L. Lynch
Residence:	
City:	Boise
State:	Idaho
Country:	USA
Citizenship:	USA
Mailing Address:	Micron Technology, Inc. 8000 S. Federal Way Mail Stop 525, P.O. Box 6 Boise, ID 83707-0006

Michael L. Lynch (Signature)
Chief Patent Counsel
Reg. No. 30,871
Micron Technology, Inc.

9-24-02
(Date)

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 7

THORP REED & ARMSTRONG, LLP
ONE OXFORD CENTRE
301 GRANT STREET, 14TH FLOOR
PITTSBURGH PA 15219-1425

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of
Jones
Application No.: 10/124,021
Filed: April 16, 2002
Attorney Docket No.: DB000929-000
For: METHOD OF DETERMINING LIBRARY PARAMETERS USING TIMING SURFACE PLANARITY

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed October 7, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor, Mr. Anthony Mark Jones has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the exhibits to the petition establish that the inventor was mailed the application papers, including the specification, claims and drawings, received them, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Micron Technology, Inc. has a proprietary interest in the above-identified application with a signed assignment document. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor 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 forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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COPY

ANTHONY MARK JONES
9445 SW 171ST STREET
BEAVERTON, OR 97007

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of
Jones
Application No.: 10/124,021
Filed: April 16, 2002
Attorney Docket No.: DB000929-000
For: METHOD OF DETERMINING LIBRARY PARAMETERS USING TIMING SURFACE PLANARITY

LETTER

Dear Mr. Jones:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTORNEY OF RECORD: THORP REED & ARMSTRONG, LLP
ONE OXFORD CENTRE
301 GRANT STREET, 14TH FLOOR
PITTSBURGH PA 15219-1425

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BRISTOL-MYERS SQUIBB COMPANY
100 HEADQUARTERS PARK DRIVE
SKILLMAN, NJ 08558

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OFFICE OF PETITIONS

In re Application of :
George F. Fatman :
Application No. 10/715,730 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. CV0326 NP :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 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 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 18, 2006.

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

The application is being referred to Technology Center AU 3761 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GENERAL MILLS, INC.
P.O. BOX 1113
MINNEAPOLIS, MN 55440

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OFFICE OF PETITIONS

In re Application of :
Victor T. Huang, et al. :
Application No. 10/715,734 :
Filed: November 17, 2003 :
Attorney Docket No. P6252 (GMI0010/US) :

ON PETITION

This is a decision on the petition, filed November 10, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered attorney or agent of record. However, the signature of Arlene Hornilla appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts in accordance with 37 CFR 1.34(a).

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 12, 2008, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). A Notice of Abandonment was mailed on October 1, 2008. In response, on November 10, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and $540 fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1794.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAY 27 2005

Eric Fincham
316 Knowlton Road
Lac Brome, QC
J0E 1V0
Canada

In re application of
Anne Vandette Reynolds et al
Application No. 10/715,754
Filed: November 18, 2003
For: HANDS-FREE STYLIST STAND

DECISION ON PETITION FOR THE ACCEPTANCE OF LATE PAPERS

This is in response to the Petition To Accept Timely Filed Papers filed May 17, 2005. There is no fee required for this petition.

The petition is **GRANTED**.

A review of the file record reveals that a Final Office action was mailed on December 17, 2004 setting a shortened statutory response period of three months.

Petitioner states that a response was filed on March 16, 2005 and provides copies of the filed documents, including a Certificate of Mailing that includes the Express Mail number (ED 426900489 US) and a copy of the Express Mail receipt with the attorney docket number 2742-1A which corresponds to application serial number 10/715,754.

This is acceptable evidence of a timely response.

It is noted that the stamped postcard receipt dated March 16, 2005 is not sufficient evidence to enter the late papers as it is related to application 10/715,805 and not application 10/715,754.

Since a timely response was filed, the application is being forwarded to the Legal Instruments Examiner for entry of the March 16, 2005 Response, and then to the Examiner for prompt action on the merits of the claims.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/jwk: 5/25/05

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

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DEC 25 2007

OFFICE OF PETITIONS

In re Application of :
Robert E. Sinclair, II. :
Application No. 10/715,765 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 304557.01 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 1, 2007.

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

This application was held abandoned on July 7, 2006, after it was believed that no response was received to the final Office action mailed April 6, 2006. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A review of the application file reveals that an Interview Summary of May 16, 2006, indicates that Supervisory Patent Examiner Richemond Dorvil and applicant agreed that a non-final Office action would be mailed. Notwithstanding, a Notice of Abandonment was mailed on September 17, 2007, indicating that a reply to the final Office action was not received.

The instant petition maintains that applicant was not required to respond to the final Office action because of the agreement reached between Examiner Dorvil and applicant that a non-final Office action would be mailed. The abandonment is being withdrawn on the basis of the undersigned's review of the application file and the agreement reached between the parties in the Interview Summary of May 16, 2006.

Based on the aforementioned, it appears that the application was improperly held abandoned. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 2600, GAU 2626 for further processing, which may include mailing of a non-final Office action.

Questions regarding this decision may 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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THOMAS P O'CONNELL
1026A MASSACHUSETTS AVENUE
ARLINGTON, MA 02476

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert Gentile	:	
Application No. 10/715,768	:	DECISION ON PETITION
Filed: November 18, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. GER-GB03	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 18, 2003 and May 9, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3714 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTENTION OF ANNA NELSON
MERCHANT & GOULD
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Fatih M. Uckun et al : DECISION ON PETITIONS
Application No. 10/715,773 : UNDER 37 CFR 1.78(a)(3)
Filed: November 17, 2003 :
Attorney Docket No. 12152.0076USC2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 16, 2005, which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

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

The concurrently filed amendment to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v.

Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] deleting the improper incorporation by reference statement 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

---

[1] *Note* 37 CFR 1.121

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

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AUG 17 2006

OFFICE OF PETITIONS

Merchant & Gould
P.O. Box 2903
Minneapolis MN 55402-0903

In re Application of :
FATIH M.UCKUN, et al. :
Application No. 10/715,773 : DECISION ON PETITIONS
Filed: November 17, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 12152.0076USC2 :

This is a decision on the **renewed** petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

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

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

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

This nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate nonprovisional application no. 09/378,093 was filed within twelve months of the filing date of the prior-filed provisional applications, nos. 60/097,365 and 60/097,359, both filed on August 21, 1998, for which priority is claimed.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to Amelia Au at (571) 272-7414. 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 1634 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/715,773	11/17/2003	1624	1268	12152.0076USC2	55	29	13

CONFIRMATION NO. 8890

CORRECTED FILING RECEIPT

OC000000019982635

Attention of Anna Nelson
Merchant & Gould
P.O. Box 2903
Minneapolis, MN 55402-0903

Date Mailed: 08/10/2006

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)

Fatih M. Uckun, White Bear Lake, MN;
Elise A. Sudbeck, St. Paul, MN;
Marina Cetkovic, Maplewood, MN;
Ravi Malaviya, Shoreview, MN;
Xing-Ping Liu, Minneapolis, MN;

Assignment For Published Patent Application

Parker Hughes Institute, Roseville, MN

Power of Attorney:

John Kaufmann--24017
James Anglin--24916
Charles Steffey--25179
Walter Nielsen--25539
Michael Schwegman--25816
Mark Litman--26390
Albin Nelson--28650
Warren Woessner--30440
Steven Lundberg--30568
Bradley Forrest--30837

Domestic Priority data as claimed by applicant

This application is a CON of 09/688,756 10/16/2000 ABN
which is a DIV of 09/378,093 08/20/1999 PAT 6,313,129
which claims benefit of 60/097,365 08/21/1998
and claims benefit of 60/097,359 08/21/1998

Foreign Applications

If Required, Foreign Filing License Granted: 02/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/715,773

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Therapeutic compounds

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of :
Faith M. Uckun et al. :
Application No. 10/715,773 : DECISION ON PETITION
Filed: November 17, 2003 : TO WITHDRAW
Attorney Docket No. 12152.0076USC2 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

A non-final rejection was mailed on January 30, 2007. Failure to timely respond will result in the abandonment of this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98012

Mail Date: 04/21/2010

Applicant	: Dwayne Need	: DECISION ON REQUEST FOR
Patent Number	: 7607086	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/715,782	: 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 **351** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070820

DATE : August 20, 2007

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction on Patent No.: 6,854,495 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Derris Banks **Art Unit** 3725

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

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JAN 14 2010

In re Application of	:	
Terry M. Turpin	:	DECISION ON PETITION
Application No. 10/715,824	:	TO WITHDRAW
Filed: November 19, 2003	:	FROM RECORD
Attorney Docket No. NG (ES) 019478 US ORD	:	

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 24, 2009.

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

A review of the file record indicates that on December 23, 2009 the power of attorney to Morrison & Foerster LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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JUL 25 2005

OFFICE OF PETITIONS

In re Patent No. 6,814,034

Issue Date: November 9, 2004

Application No. 10/715,829

Filed: November 19, 2003

Attorney Docket No. **107348-00388**

ON PETITION

This is a decision on the petition filed November 17, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's city of residence on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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JOSEPH W. BAIN
MARK M. ZYLKA
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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JAN 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Nies :
Application No. 10/715,864 : NOTICE
Filed: November 16, 2003 :
Attorney Docket No.

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

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

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

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

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

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

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

DATE 8/16/07 APPLICATION NUMBER 10715868

DOC CODE PET.DEC.TC DOC DATE 8/17/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

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

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

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CLARK & ELBING LLP
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BOSTON MA 02110

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of :
Arroyo et al. :
Application No. 10/715868 : DECISION ON PETITION
Filed: 11/17/2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 06132/075002 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 19 June, 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/US03/36623, filed on 13 November, 2003, 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) 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.

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 the examiner of Technology Center Art Unit 1648 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/715,868	11/17/2003	1648	1325	06132/075002	14	1

CONFIRMATION NO. 5599

CORRECTED FILING RECEIPT

21559
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

OC000000025426190

Date Mailed: 08/17/2007

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)

Juan Arroyo, Rockville, MD;
Charles Miller, Lynn, MA;
John Avram Catalan, Newton, MA;
Thomas P. Monath, Harvard, MA;

Power of Attorney: The patent practitioners associated with Customer Number **21559**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/426,592 11/15/2002
and is a CIP of PCT/US03/36623 11/13/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/715,868

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

WEST NILE VIRUS VACCINE

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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BOSTON MA 02110

In re Application of	:	
ARROYO, JUAN	:	
Application No.: 10/715868	:	DECISION ON
Filing or 371(c) Date: 11/17/2003	:	PETITION
Attorney Docket Number: **06132/075002**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed September 08, 2008.

This is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed April 24, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 164.

FOR Kendrick Sprull
Application Assistance Unit
Office of Data Management

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Paper No.

AUG 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,507,415	:	
Arroyo et al.	:	DECISION DISMISSING
Application No. 10/715,868	:	REQUEST FOR
Issue Date: March 24, 2009	:	RECONSIDERATION OF
Filed: November 17, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 06132/075002	:	UNDER 37 CFR § 1.705(d)
Title: WEST NILE VIRUS VACCINE	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 705," filed on May 26, 2009, which is being treated as a petition pursuant to 37 CFR § 1.705(d), requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred and four (404) to six hundred and seventy-seven (677) days.

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

On March 24, 2009, the application matured into U.S. Patent No. 7,507,415, with a revised patent term adjustment of 404 days. On May 26, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. Patentees request 495 days of additional patent term adjustment in accordance with 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 pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the non-overlapping between the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), and the period of adjustment due to examination delays, pursuant to 37 CFR §§ 1.702(a)(1), (a)(2), and (a)(4) is 348 days as these periods do not occur on the same day. Accordingly, patentees contend that "the Office delay associated with the '415 patent is 228 days (A delay) +

495 days (B delay) + 120 days (A delay) = 843 days, while the applicant delay is 166 days (as calculated by the Office).[1] Thus, patentee asserts as entitlement to a patent term adjustment under 37 C.F.R. § 1.703 of 677 days.

Pursuant to 35 U.S.C. 154(b)(1)(B), the term of a 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. As acknowledged by patentees, this period does not include any time consumed by continued examination of the application requested by the applicant under section 132(b). Thus, the relevant period in considering this overlap ends with applicant's filing of the request for continued examination (RCE) pursuant to section 132(b). Further, the period for over three-year pendency does not include any period of adjustment which overlaps with the period of adjustment for Office delay accorded pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a).

The Office agrees that the application was pending 3 years and 495 days after its filing date, as of the filing of the request for continued examination (RCE) on March 26, 2008. Moreover, as of the filing of the RCE, 296 days of adjustment for Office delay had been accorded pursuant to 35 U.S.C. 154(b)(1)(A) and §§ 1.702(a)(1) and (a)(2).[2] At issue is whether the period of adjustment of 495 days attributable to the Office taking in excess of three years to issue the patent overlaps with the adjustment of 296 days attributable to the Office's failures to issue a first Office action no later than fourteen months after the application filing date and to respond to the response to the non-final Office action of June 19, 2007 within four months. The Office is of the position that the 495 days do overlap and thus, entry of the 495 days for over three-year pendency is not permitted. Accordingly, at issuance, the Office properly entered 199 (495 - 296) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent, and the Office calculated the patent term adjustment as 371 (296 + 75) + 199 - 166 = 404 days.

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1 Petition, page 6.

2 The other 75 days of adjustment were accorded subsequent to the filing of the RCE and thus, are not considered in determining overlap with the 3 year period which ends with the filing of the RCE.

This calculation of the patent term adjustment has been reconsidered and is affirmed. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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 (June 15, 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 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). The period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, there is an excluded period for the filing of a request for continued examination (RCE). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period beginning on the date of filing of the application, November 17, 2003 and ending on the date of filing of the request for continued examination, March 26, 2008. 296 days of adjustment for Office delay were accorded prior to the filing of the RCE. The 495 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 296 days attributable to grounds specified in §§ 1.702(a)(1) and (a)(2). Entry of both periods is neither permitted nor warranted.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 404 days (371 + 199 - 166).

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 Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

ATER WYNNE LLP
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PORTLAND OR 97201-6618

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JUN 23 2008

In re Application of	:	
John M. Epley	:	
Application No. 10/715,871	:	DECISION ON PETITION
Filed: November 17, 2003	:	PURSUANT TO
Attorney Docket No.: 103419-0003	:	37 C.F.R. § 1.181
Title: HEAD-STABILIZED MEDICAL APPARATUS, SYSTEM AND METHODOLOGY	:	

This is a decision on the petition filed May 14, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

It is noted in passing that Petitioner has not placed his entire registration number underneath the signature that has been placed on this petition.

Both a notice of appeal and a "Pre-Appeal Brief Request for Review" were submitted on September 7, 2007. The above-identified application became abandoned for failure to reply in a timely manner to the "Notice of Panel Decision from Pre-Appeal Brief Review," mailed November 2, 2007, which did not extend the period for submitting an Appeal Brief. 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 November 8, 2007. A notice of abandonment was mailed on April 14, 2008.

With this petition, Petitioner has asserted that a response was submitted to the Office on November 28, 2007 in the form of a Request for Continued Examination (RCE) and a preliminary

amendment. Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission, however it does not appear that Petitioner has provided a statement from the individual who executed this certificate of facsimile transmission.

It is further noted that Office records reflect the receipt of the fee that is associated with the filing of an RCE along with the fee that is associated with a petition for a one-month extension of time on November 28, 2007.

Petitioner has asserted

> the holding of abandonment was improper and caused entirely (emphasis added) by inadvertent errors of the Office[1].

This statement does not appear to be accurate - as Petitioner has noted, the facsimile cover sheet that accompanied this submission contained the wrong series code: 11/715,871[2]. Consequently, these papers were received, and placed into the electronic file that is associated with application serial number 11/715,871, pursuant to Petitioner's instruction.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such. The Office will make an effort to assist practitioners if there is sufficient information on the filing to make possible identification of the proper application number[3]. Nonetheless, consistent with his/her duty under Pratt[4] to handle the matter in the vein of one's most important business affairs, a practitioner must be cautious in preparation of his/her submissions[5].

It is clear that the submission was timely received on November 28, 2007, and placed into the electronic file associated with application number 11/715,871. Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Both the RCE and the concurrently submitted amendment will be removed from the electronic file associated with application

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1 Petition, page 3.
2 The RCE, the amendment, and the petition for an extension of time each contain the correct series code.
3 See MPEP §§ 508.03(III) and 724.05(III).
4 Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).
5 See MPEP § 502, which sets forth, *in pertinent part*, "Application number (checked for accuracy, including series code and serial no.) …").

number 11/715,871, and placed into the electronic file associated with the present application in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on November 28, 2007 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. 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

6 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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JUL 29 2010

OFFICE OF PETITIONS

ATER WYNNE LLP
1331 NW LOVEJOY ST. SUITE 900
PORTLAND, OR 97209-2785

In re Application of :
John M. Epley :
Application No. 10/715,871 : DECISION ON PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 103419-0003 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The 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 this application is entitled to the benefit of the prior-filed application(s). In order for this 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 application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 3736 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/715,871	11/17/2003	3736	550	103419-0003	23	5

CONFIRMATION NO. 5600

CORRECTED FILING RECEIPT

35940
ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND, OR 97209-2785

Date Mailed: 07/13/2010

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)

John M. Epley, Portland, OR;

Assignment For Published Patent Application

Epley Research, L.L.C.

Power of Attorney: The patent practitioners associated with Customer Number 35940

Domestic Priority data as claimed by applicant

This application is a CIP of 10/188,564 07/03/2002 PAT 6,800,062

Foreign Applications

If Required, Foreign Filing License Granted: 02/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/715,871**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Head-stabilized medical apparatus, system and methodology

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID J. ARCHER
7037 POMERY ROAD
ROCKTON IL 61072

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FEB 26 2009

OFFICE OF PETITIONS

In re Application of :
Timm et al. :
Application No. 10/715889 :
Filing or 371(c) Date: 11/17/2003 :
Attorney Docket Number: :
1349 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment," filed January 15, 2009. The petition is properly treated under 37 C.F.R. § 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed September 3, 2008. The Office communication set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on October 4, 2008. A Notice of Abandonment was mailed January 6, 2009.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office communication was filed on October 22, 2008, including a petition for a one (1) month extension of time and fee.

Review of Office Records

A review of Office records confirms that the Office received the reply filed on October 22, 2008, including a petition for a one (1) month extension of time and fee.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 3743 for processing of the reply, and for continued examination in due course.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
WWW.USPTO.GOV

Mailed: 7/28/05

DWW

In re Application of Andersson et al.
Serial No.: 10/715,903
Filed: November 18, 2003

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

Title: ANTIMICROBIAL LENSES, PROCESSES TO PREPARE THEM AND METHODS OF THEIR USE

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed July 06, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the names of Jonathan P. Adams to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Karen A. Harding
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 22 2007

OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of :
Andersson, et al. : DECISION ON PETITION
Application No. 10/715,903 :
Filed: November 18, 2003 :
Docket No.: VTN 5001NP :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 8, 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 April 7, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed October 19, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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AUG 0 4 2008

In re Application of
Andersson, et al.
Application No. 10/715,903
Filed: November 18, 2003
Attorney Docket No. VTN 5001NP

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 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 March 28, 2007 for failure s to timely pay the issue fee, as required by the Notice of Allowance and Fee(s) Due (Notice) mailed December 27, 2007. The Notice set a statutory period for reply of three (3) months. Notice of Abandonment was mailed June 3, 2008.

Submission of the petition fee is a prerequisite prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137(b). The instant petition was not accompanied by the required fee. Accordingly, a decision on the merits of this decision is not included herewith.

Any renewed petition must include the required petition fee (currently, $1540 for a large entity and $770 for a small entity).

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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLEN E. BOOKS
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
David Keating et al :
Application No. 10/715,908 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 15604-3

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 24, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6984156	2006-01-10	10715908	2003-11-18	003782

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark J. Patterson/	Date (YYYY-MM-DD)	2010-04-06
Name	Mark J. Patterson	Registration Number	30412

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6984156
Issue Date: January 10,2006
Application No. 10715908
Filed: November 18,2003
Attorney Docket No. 03-269 (3029356)

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

This is a decision on the electronic petition, filed April 6,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Montgomery :
Application No. 10/715,917 : DECISION ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 03215294 :

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

The above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed June 29, 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 September 30, 2005. A Notice of Abandonment was mailed on January 11, 2006.

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.

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

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 1600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: David M. Quinlan
32 Nassau Street
Suite 300
Princeton, NJ 08542

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DISCUS DENTAL IMPRESSIONS, INC.
8550 HIGUERA STREET
CULVER CITY CA 90232

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of :
MONTGOMERY :
Application No. 10/715,917 : DECISION ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 03215294 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 1, 2006 . Accordingly, the date of abandonment of this application is September 2, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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2655
(1775)

RICHARD P. BERG, ESQ.
C/O LADAS & PARRY
SUITE 2100
5670 WILSHIRE BOULEVARD
LOS ANGELES CA 90036-5679

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FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of	:
Wei-Tse Hsu	: DECISION DISMISSING
Application No. 10/715,925	: PETITION AS MOOT
Filed: 17 November, 2003	:
Attorney Dkt No. B-5298 621492-4	:

This is a decision on the petition, filed on 10 December, 2003, and captioned for application No. 10/714,925, under 37 CFR 1.10, requesting that the above-identified application be accorded a filing date of 17 November, 2003.

A review of the Office PALM records reveals that this application was previously accorded a filing date of 17 January, 2003. Petitioner's itemized postcard appears to have been stamped with the wrong application serial number and filing date. The Office regrets any inconvenience to petitioner.

As the application has been accorded a filing date of 17 November, 2003, the present petition is unnecessary and will be dismissed as involving a moot issue.

A replacement Filing Receipt is enclosed for petitioner's convenience.

The application is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Filing Receipt

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Paper No.

Sandra P. Thompson
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of	
Shyama Mukherjee, Joseph Levert	
and Donald Debear	DECISION ACCORDING STATUS
Application No. 10/715,952	UNDER 37 CFR 1.47(a)
Filed: November 17, 2003	
Atty Docket No. 30-4945 DIV -4780	
Title: VISCOUS PROTECTIVE	
OVERLAYERS FOR PLANARIZATION OF	
INTEGRATED CIRCUITS	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed April 19, 2004.

The petition is **GRANTED**.

The above-identified application was filed on November 17, 2003, without an executed oath or declaration. Accordingly, on February 17, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, rule 47 applicants filed the instant petition (and fee); the late surcharge; and a declaration executed by joint inventor Levert on behalf of himself and on behalf of non-signing joint inventors Mukherjee and Debear. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventors Mukherjee and Debear, by their conduct, have refused to join in the application for patent.

By declaration of senior paralegal Kristin Azcona, petitioner has shown that the application papers were presented to the nonsigning inventors, but they did not respond to the request to sign the declaration. The petition includes a statement of the last known addresses of the non-signing inventors.

The declaration filed April 19, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

The application will be examined in Technology Center 1765 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHYAMA MUKHERJEE
2470 PINTO COURT
MORGAN HILL, CA 95037

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of
Shyama Mukherjee, Joseph Levert
and Donald Debear
Application No. 10/715,952
Filed: November 17, 2003
Atty Docket No. 30-4945 DIV -4780
Title: VISCOUS PROTECTIVE OVERLAYERS FOR PLANARIZATION OF INTEGRATED CIRCUITS

LETTER

Dear Inventor Mukherjee:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Sandra P. Thompson
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

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P.O. Box 1450
Alexandria, VA 22313-1450
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DONALD DEBEAR
528 DOWNING AVENUE
SAN JOSE, CA 95128

In re Application of :
Shyama Mukherjee, Joseph Levert :
and Donald Debear : LETTER
Application No. 10/715,952 :
Filed: November 17, 2003 :
Atty Docket No. 30-4945 DIV -4780 :
Title: VISCOUS PROTECTIVE OVERLAYERS :
FOR PLANARIZATION OF INTEGRATED :
CIRCUITS :

COPY MAILED

AUG 2 0 2004

OFFICE OF PETITIONS

Dear Mr. DeBear:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Sandra P. Thompson
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

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

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Eric E. Blouin et al :
Application No. 10/715,961 : DECISION GRANTING PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
RPS920030169US1/2930P

This is a decision on the petition, filed July 31, 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 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2116 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of
Yang et al. :
Application No. 10/715,982 : CORRECTED
Filed: November 18, 2003 : NOTICE
Attorney Docket Number: 1970-3 :

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.28, said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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

Derek L. Woods
Attorney
Office of Petitions

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SEYFARTH SHAW, LLP
55 E. MONROE STREET
SUITE 4200
CHICAGO, IL 60603-5803

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Stephane Bedard, et. al. :
Application No. 10/715,989 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. TJK/432 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 24, 2006, to revive the above-identified application.

The application became abandoned for failure to timely reply to the non-final Office action mailed December 28, 2004. A Notice of Abandonment was mailed July 28, 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 $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 3738, 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

JUN 14 2004 PATENT & TRADEMARK OFFICE

1FW

IN THE UNITED STATES PATENT OFFICE

IN RE APPLICATION:

Title:	APPARATUS AND METHOD FOR TRANSFERRING A TEMPLATE		
Applicant:	Robert P. Schoppman	Art Unit:	1733
Serial No.:	10/716,018	Examiner:	
Filed:	November 18, 2003	Attorney File No:	2003-0140

PETITION TO WITHDRAW FROM REPRESENTATION

Mail Stop **PETITIONS**
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Approved
Jacqueline M. Stone, Director
Technology Center 1700
SEP - 2 2004

The undersigned attorneys of record, namely, Robert F. Frijouf, Registration No. 26,546 and Charles R. Rust, Registration No. 18,716 hereby petition to withdraw from representation of the above applicant in the subject pending application.

The undersigned attorneys of record petition to withdraw on the basis of certain irreconcilable differences between the applicant and the undersigned attorneys of record. The undersigned attorneys of record believe that they will be unable to properly represent the applicant in the above matter.

There are no outstanding office actions issued by the United States Patent Office.

The undersigned attorneys of record respectfully request that the United States Patent Office take prompt action regarding this petition in order to enable the applicant to obtain other representation.

OIPE JC42
JUN 14 2004
PATENT & TRADEMARK OFFICE

Respectfully submitted,
FRIJOUF, RUST & PYLE, P.A.

Robert F. Frijouf, Reg. No. 26546
210 East Davis Boulevard
Tampa, Florida 33606
(813) 254-5100
Attorneys for Applicant

Deposit Account

Please charge our account any deficiency in fees or credit any overpayment arising out of this correspondence to Deposit Account No. 06-2120.

CERTIFICATE OF SERVICE TO APPLICANT

It is hereby certified that the foregoing correspondence has been placed in an envelope addressed to the applicant, Robert P Schoppman at 120 Jeffery Drive, Brandon, Florida 33511 and mailed by Certified mail, Return Receipt Requested and First Class Mail, postage prepaid, this 9th day of June, 2004.

CERTIFICATE OF MAILING

It is hereby certified that the foregoing correspondence and fee is being placed in an envelope addressed to: Mail Stop **PETITIONS**, Commissioner For Patents, PO Box 1450, Alexandria, Virginia 22313-1450 and mailed by first class mail, postage prepaid, this 9th day of June, 2004.

SPE: R. Pascal

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/6/07

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/716,019 Patent No.: 7170347

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Robert Pascal
Supervisory Patent Examiner
Technology Center 2800

SPE

2817
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JJGJr : 12-07

Paper ___

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OFFICE OF PETITIONS

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

In re Application of :
Metzler :
Application No. 10/716,045 : DECISION
Filed: 17 November, 2003 :
Attorney Docket No. 42P18002 :

This is a decision on the petition filed on 23 October and supplemented on 10 December, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 February 2007, with reply due absent extension of time on or before 8 May, 2007;
- the application went abandoned after midnight 8 May, 2007;
- the Office mailed the Notice of Abandonment on 9 October, 2007;
- on 23 October, 2007, Petitioner filed the instant petition, with an averment of non-receipt and, while there was no a statement in the original petition that a search was made of Petitioner's file and the Office action is not found in the file, nor was there a copy of Petitioner's due-date docket for 8 May, 2007, those omissions were overcome in the supplement; moreover, it is clear from the record that the Office action was mailed not to

the Sunnyvale, California, address (set forth above) associated with the Customer Number (08791) listed on deposit of the application, but to a former (and possibly out-of-date) Lake Oswego, Oregon, street address—which error has been corrected of record—and on at least two occasions mailings to Petitioner from the Office were returned by the U.S. Postal Service as undelivered and are evident in the file—and Petitioner has sought to carry his burdens consistent with the guidance set forth at the Commentary at MPEP §711.03(c).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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.

---

[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).

See specifically, the regulations at 37 C.F.R. §10.18.

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The 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.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See, also: the commentary at MPEP §711.03(c).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements herein.

CONCLUSION

---

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

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

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

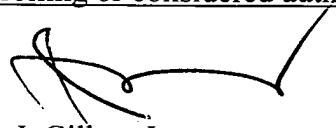
[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

The petition as considered under 37 C.F.R. §1.181 is **granted** and 9 October, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center AU 2617 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



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

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MAIL

JUN 16 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERT M. HUNTER PLLC
P.O. BOX 2709
KAMUELA HI 96743

In re Application of :
Victor Chartrand :
Application No. 10/716,048 : DECISION ON PETITION
Filed: November 19, 2003 : TO MAKE SPECIAL
For: **SYSTEM AND METHOD FOR ROUTING CALLS TO MULTI-FUNCTION TELEPHONE NUMBERS** :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed December 18, 2003 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

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

The petition includes a declaration by Mr. Victor Chartrand attesting that he 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/716,051	11/18/2003	2661	1202	9400-47 (030312)	26	44	3

CONFIRMATION NO. 4265

39072
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000012614298

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)

Thomas Arnold Anschutz, Conyers, GA;
Jeffrey Patrick Cassanova, Villa Rica, GA;
Scott Crandall Holt, Decatur, GA;
Nicholas-Steven Huslak, Duluth, GA;
Edgar Vaughan Shrum JR., Smyrna, GA;
Scott Traynham Stillman, Peachtree City, GA;
Li Zhang, Alpharetta, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/470,650 05/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/19/2004

Projected Publication Date: 11/18/2004

Non-Publication Request: No

Early Publication Request: No

Title

Systems, methods and computer program products for managing quality of service, session, authentication and/or bandwidth allocation in a regional/access network (RAN)

Preliminary Class

370

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of :
Pang-Lun Yang :
Application No. 10/716,068 : DECISION REFUSING STATUS
Filed: November 18, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. U014869-6 :
For: METHOD AND APPARATUS FOR PATTERNING AN OPTICAL ELEMENT

This is a decision on the petition under 37 CFR 1.47(b), filed November 18, 2003.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on November 18, 2003, and was accompanied by the instant petition under 37 CFR 1.47(b). Petitioner maintains that inventor Yang has refused to execute the declaration under 37 CFR 1.63.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition has not satisfied items (1) and (2) above. As to item (1), the instant petition does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application paper should be sent to the last known address of the non-signing inventor . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

While the instant petition states that inventor Yang is refusing to join the prosecution of the application, it is not clear whether he was provided with a complete copy of the application papers. The renewed petition must be accompanied by evidence that an attempt was made to present inventor Yang with a complete copy of the application papers.

As to item (2) as set forth above, a declaration signed by the assignee cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the *Manual of Patent Examining*

Procedure cites 37 CFR 3.71(c) which states that, "[a]n assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Statement Under 37 CFR 3.73(b)"

PTO/SB/96 (09-06)
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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

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

Entitled:

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

states that it is:

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

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

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

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

OR

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

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

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

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

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

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

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

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

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

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

Privacy Act Statement

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Pang-Lun Yang :
Application No. 10/716,068 : DECISION ACCORDING STATUS
Filed: November 18, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. U014869-6 :
For: METHOD AND APPARATUS FOR PATTERNING AN OPTICAL ELEMENT

This is in response to the renewed petition under 37 CFR 1.47(b), filed March 21, 2007, and the supplement to the same filed April 2, 2007.

The renewed petition is **GRANTED**.

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

The above-identified application was filed on November 18, 2003, and was accompanied by a petition under 37 CFR 1.47(b). The petition was dismissed by a decision mailed January 26, 2007. The instant renewed petition was filed on March 21, 2007. Petitioner maintains that inventor Yang has refused to execute the declaration under 37 CFR 1.63.

By the instant petition and evidentiary documents, petitioner has established that the sole inventor has refused to join the prosecution of the application and that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the sole inventor.

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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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Mail Date: 04/21/2010

Applicant	: Oleksiy Pikalo	: DECISION ON REQUEST FOR
Patent Number	: 7627126	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/716,078	: 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 **1164** 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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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Mail Date: 05/18/2010

Applicant : Oleksiy Pikalo
Patent Number : 7627126
Issue Date : 12/01/2009
Application No: 10/716,078
Filed : 11/18/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/716,085	11/18/2003	2631	1064	8194-723	2	22	6

CONFIRMATION NO. 4858

David K. Purks
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

CORRECTED FILING RECEIPT

OC000000013165764

Date Mailed: 07/07/2004

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)

Huseyin Arslan, Tampa, FL;
Abdulrauf Hafeez, Morrisville, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/27/2004

Projected Publication Date: 05/19/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for pre-filtering a signal to increase signal-to-noise ratio and decorrelate noise

Preliminary Class

375

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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. 091304

OCT 1 2004

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

In re Application of:
WILLIAM BAKER
Serial No.: 10/716,094
Filed: November 18, 2003
Attorney Docket No.: **18534.53**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 03, 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 David L. McCombs, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

All future communications from the Office will be directed to the inventor, William Baker, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

cc: WILLIAM BAKER
SPAN INCORPORATED
5605 WEST 73RD STREET
INDIANAPOLIS, IN 46256

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PATENT
03917-P0001B WWW/SBS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Byron D. Vargas
Serial No. 10/716,099	Filing Date: November 17, 2003
Title of Application:	System for Translating Programming Languages
Confirmation No. 6113	Art Unit: 2641

Application Processing Division's
Customer Correction Branch
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Request For Corrected Filing Receipt

Please correct the official Filing Receipt (copy enclosed) received from the United States Patent and Trademark Office for the above-identified application.

There is an error with respect to the following data, which is:

The filing date is in error

The filing date is stated as 11/17/2003 and should be 11/**18**/2003

Respectfully submitted,

Wesley W. Whitmyer, Jr., Registration No. 33,558
Steven B. Simonis, Registration No. 54,449
Attorneys for Applicant
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155

Mailing Certificate: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as *First Class Mail* in an envelope addressed to: Commissioner for Patents and Trademarks; Post Office Box 1450; Alexandria, VA 22313-1450; Application Processing Division's Customer Correction Branch.

April 7, 2004

Charlotte E. Hanulik

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/716,099	11/17/2003	Byron D. Vargas	03917-P0001B

CONFIRMATION NO. 6113

24126
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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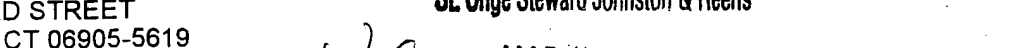
St. Onge Steward Johnston & Reens
MAR 25 2004
FILE
DKT



Date Mailed: 03/23/2004

OIPE JC102
APR 09 2004
PATENT & TRADEMARK OFFICE

RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

Application Filing Date

In response to your request for a corrected Filing Receipt, the Office cannot comply with your request because:

- ☐ If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, a petition to accord a filing date should be submitted along with a copy of the Express Mail label showing the "date in" and be directed to the Office of Petitions.
- ☒ A copy of the Express Mail label was not enclosed with your request. Petitions under 37 CFR 1.10 require a copy of the Express Mail Label to be submitted.
- ☐ The "date in" on the Express Mail label is the date given on the Filing Receipt.
- ☐ The filing date accorded to the application is the date the application met the filing date requirements of 37 CFR 1.53(b) or (c).
- ☐ Applications submitted with a certificate of mailing under 37 CFR 1.8 are accorded a filing date as of the date the application is received in the U.S. Patent and Trademark Office. A request to review the filing date accorded to the application must be in the form of a petition.
- ☐ The filing date on your return postcard is the same as the date on your Filing Receipt. A request to review the filing date accorded to the application must be in the form of a petition.

A petition under 37 CFR 1.10, 37 CFR 1.53 or 37 CFR 1.182 is needed to request a change to the filing date. A $130 petition fee is required for a petition under 1.53 or 1.182. If you choose to file a petition, the petition and the $130 petition fee, if any, to:

Box DAC

Commissioner for Patents
Washington, DC 20231

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

APR 09 2004 JC102 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/716,099	11/17/2003	2641	852	03917-P0001B	15	48	8

CONFIRMATION NO. 6113

24126
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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St. Onge Steward Johnston & Reens

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OC000000011923330

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FILE 11-17-04-FF
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Date Mailed: 02/19/2004

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)

Byron D. Vargas, Wallkill, NY;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/427,733 11/20/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2004

Projected Publication Date: 05/27/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System for translating programming languages

Preliminary Class

704

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).

TN: DEAN

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Paper No. None

Samuels, Gauthier & Stevens LLP
Suite 3300
225 Franklin Street
Boston MA 02110

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Lupi Quintilio
Application No. 10/716,110
Filed: November 18, 2003
Attorney Docket No.: 6330CIP
Title: COATING FOR A SMOOTHING AND/OR POLISHING ELEMENT, PARTICULARLY A GRINDING WHEEL, GRINDING WHEEL PROVIDED WITH SAID COATING, PROCESS FOR OBTAINING SAID COATING AND PROCESS FOR REALISING SAID GRINDING WHEEL

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed December 20, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed February 18, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 19, 2004. A Notice of Abandonment was mailed on November 30, 2004.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the petition, Petitioner has submitted the petition fee[2], a declaration which has been executed by the inventor, the required surcharge, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

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

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

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

2 Petitioner has included a check in the amount of $685. On December 8, 2004, the petition fee was raised to $750. The difference has been charged to Petitioner's Deposit Account, as authorized in the petition.

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
10/716,130	11/18/2003	3632	770	PHB71792	1	15	1

CONFIRMATION NO. 6979

CORRECTED FILING RECEIPT

OC000000012015834

Michael M. Rickin, Esq.
ABB Inc.
Legal Department - 4U6
29801 Euclid Avenue
Wickliffe, OH 44092-1898

Date Mailed: 03/03/2004

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

Applicant(s)

Thomas L. Bauer, Residence Not Provided;
Albrecht Vogel, Residence Not Provided;
Peter Krippner, Residence Not Provided;
Manfred Wetzko, Residence Not Provided;
Christian J. Schmidt, Residence Not Provided;
Antonio Ruzzu, Residence Not Provided;
Rolf Merte, Residence Not Provided;

Assignment For Published Patent Application

ABB Patent GmbH;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 10555696.2 11/29/2002

If Required, Foreign Filing License Granted: 02/18/2004

Projected Publication Date: 06/10/2004

Non-Publication Request: No

Early Publication Request: No

Title

Device for suspension of a sample body

Preliminary Class

248

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P.O. BOX 368
RIDGEFIELD CT 06877-0368

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of :
Matthias Eckhardt et al :
Application No. 10/716,141 : DECISION GRANTING PETITION
Filed: November 18, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1/1419 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of December 27, 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 1624.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Theodore F. Emerson et al	:	
Application No. 10/716,144	:	DECISION ON PETITION
Filed: November 18, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 200303930-4	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

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.

This application is being referred to Technology Center Art Unit 2181 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/716,148	11/17/2003	2882	770	1232-5210	6	7	1

CONFIRMATION NO. 5287

CORRECTED FILING RECEIPT

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

OC000000014695273

Date Mailed: 12/08/2004

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)

Kazuhiro Matsumoto, Saitama, JAPAN;

Power of Attorney:

Joseph Calvaruso–28287

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-342772 11/26/2002

If Required, Foreign Filing License Granted: 02/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/716,148

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

X-ray digital tomographic image taking apparatus

Preliminary Class

378

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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HARME SCHUMANN MUELLER & LARSON PC
P O BOX 2902-0902
MINNEAPOLIS, MN 55402

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Kazumitsu Kushida et al :
Application No. 10/716,151 : DECISION GRANTING PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14470.0019US01 :

This is a decision on the petition, filed July 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 12, 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 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\july9\716151.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
Junichi Kishida et al :
Application No. 10/716,159 : DECISION ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 64272/00001 :

This is a decision on the petition under 37 CFR 3.81(b), filed February 1, 2007, to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Toshiba America Electronic Components, Inc. and that incorrect assignees were included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Toshiba America Electronic Components, Inc., of Irvine, California.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records

reflect that Toshiba America Electronic Components, Inc., of Irvine, California, is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), **it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.**

As authorized, the $100 certificate of correction fee will be charged to petitioner's deposit account.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to Publishing Division for appropriate action in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIMON, GALASSO & FRANTZ PLC.
P.O. BOX 26503
AUSTIN TX 78755-0503

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MAY 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Brandon L. Hudgeons :
Application No. 10/716,173 : ON PETITION
Filed: November 18, 2003 :
Atty's Docket No. 1590.00003 :

This is a decision on the petition under 37 CFR 1.182, filed April 19, 2004 (certificate of mail date, April 16, 2004), in response to the Notice To File Missing Parts mailed February 18, 2004.

The application was filed November 18, 2003. However, on February 18, 2004, the Office of Initial Patent Examination mailed a Notice To File Missing Parts noting *inter alia*, that while the application had been accorded a filing date of November 18, 2003, Figure 9 described in the specification appeared to have been omitted.

Petitioner asserts that ten (10) sheets of drawings containing Figures 1-10, of which Figure 9 was included among the papers filed on November 18, 2003, and with the petition, submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of drawing sheets to be 10 and bears a United States Patent and Trademark Office date-stamp of November 18, 2003. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **GRANTED.** The "Notice" was improperly mailed and is withdrawn.

Given the basis for granting the petition, no petition fee is due and none has been charged.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on November 18, 2003 and the one (1) sheet of drawings containing Figure 9 submitted on petition April 19, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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JUL 19 2004

OFFICE OF PETITIONS

In re Application of :
Leslie Dotson :
Application No. 10/716,178 : DECISION GRANTING PETITION
Filed: November 19, 2003 : UNDER 37 CFR 1.47(b)
For: FOLDABLE KEYBOARD ASSEMBLY :
:

This is in response to the "Petition Under 37 CFR 1.47(b)," filed June 1, 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 Thomas C. Fiala 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. In addition, petitioner has shown that Targus, Inc. has a proprietary interest in the above-identified application with the copy of the confidentiality agreement showing that the inventor had an obligation to assign any patent rights to Targus, Inc. 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 preserve Targus's rights.

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.

Please note, the "Notice To File Missing Parts," mailed March 31, 2004, set a two month period to reply. As such, a response was due by midnight on May 31, 2004. As the instant petition was submitted on June 1, 2004, a one (1) month extension of time will be charged to deposit account no. 19-0036.

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)306-9200

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LESLIE DOTSON
1919 WEST CORONET AVENUE, #30
ANAHEIM, CA 92801

COPY MAILED
JUL 19 2004
OFFICE OF PETITIONS

In re Application of
Leslie Dotson
Application No. 10/716,178
Filed: November 19, 2003
For: FOLDABLE KEYBOARD ASSEMBLY

Dear LESLIE DOTSON:

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 (703)306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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MOSTER WYNNE
LAKE AUSTIN MARINA
2219 WESTLAKE DRIVE
SUITE 200
AUSTIN, TX 78746

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OFFICE OF PETITIONS

In re Application of Carter :
Application No. 10/716,194 : Decision on Petition
Filing Date: November 18, 2003 :
Attorney Docket No. 17570 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 27, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned as of midnight on April 27, 2004. A Notice of Abandonment was mailed on December 1, 2004.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Payment for an extension of time is unnecessary when filing a petition under 37 CFR 1.137. Therefore, the Office has scheduled a refund of the $1,080 extension of time fee submitted with the petition.

The Office of Initial Patent Examination will be informed of the instant decision and will prepare the application for examination 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: 1-13-06

DWW

In re Application of David H. Burns et al.
Serial No.: 10/716,201
Filed: November 18, 2003

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: PROCESS FOR PRODUCING POLYOLEFINS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed November 7, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the name of Scott E. Kufeld to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Williams, Morgan & Amerson
10333 Richmond, Suite 1100
Huston, Texas 77042

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BWX TECHNOLOGIES, INC.
1562 BEESON STREET
ALLIANCE OH 44601

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APR 21 2004

OFFICE OF PETITIONS

In re Application of
Barchelder, Brandsberg, Weber, & Karasik
Application No.: 10/716,210
Filed: November 18, 2003
Attorney Docket No.: 7003
For: LOW LOSS SUPERCONDUCTING CABLE IN CONDUIT CONDUCTOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 18, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 18, 2003 with a partially executed declaration and a petition under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the legal representative of the deceased inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the legal representative of the deceased inventor.

This petition lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the legal representative of the deceased inventor cannot be located. Petitioners state that Mrs. Karasik has moved from the United States. Petitioners have provided no evidence of attempts to locate her whereabouts. Petitioners must engage in such efforts.

An affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as any inquiries of telephone directories or any extant national or regional registry, telegrams, searches of Internet databases, etc., that support a finding that the legal representative of the deceased inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

A showing of diligence is critical to obtaining Rule 47 status when a legal representative of a deceased inventor cannot be located or reached.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains no information for the legal representative. **Petitioners must submit another declaration that lists identifying information for all inventors, including the deceased inventor, and the legal representative. This new declaration must be executed by the signing inventors.** The identifying information must include: -- Residence, Citizenship, and Post Office. The last known residence/post office for Mr. Karasik prior to his death should be used. If Mrs. Karasik's new address cannot be discovered, petitioners should use her last known address in the United States.

Another reason the declaration submitted on November 18, 2003 is not acceptable is because the city of the deceased inventor is inaccurate. It is typed as "F rest", but should instead be "Forest". Please ensure the correct city is listed on the newly executed declaration.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the deceased inventor/legal representative is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand:
Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX:
(703) 872-9306
ATTN: Office of Petitions - E. Shirene Willis

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
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BWX TECHNOLOGIES, INC.
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ALLIANCE OH 44601

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OFFICE OF PETITIONS

In re Application of
Brandsberg, et al.
Application No.: 10/716,210
Filed: November 18, 2003
Attorney Docket No.: 7003
For: LOW LOSS SUPERCONDUCTING CABLE IN CONDUIT CONDUCTOR

DECISION REFUSING JOINDER

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed June 21, 2004 (certificate of mailing date June 17, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Response to Decision Refusing Joinder." **Failure to respond will result in abandonment of the application.**

Papers filed on June 21, 2004 (certificate of mailing date June 17, 2004) included a declaration executed by the three living inventors and the previously non-signing representative of the deceased inventor, Ms. Maourina. Unfortunately, the declaration contains an noninitialed, nondated alteration to Ms. Maourina's post office address. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

Pursuant to 37 CFR 1.67(a)(2), Ms. Maourina must execute a supplemental declaration listing her correct information and identifying all joint inventors and their information. Only Ms. Maourina's signature is required on the supplemental declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
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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BWX TECHNOLOGIES, INC.
LAW DEPARTMENT - INTELLECTUAL PROPERTY
91 STIRLING AVENUE
(MAIL STATION BWO11E)
BARBERTON OH 44203-0271

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Brandsberg, et al. :
Application No.: 10/716,210 :
Filed: November 18, 2003 :
Attorney Docket No.: 7003 :
For: LOW LOSS SUPERCONDUCTING CABLE IN CONDUIT CONDUCTOR

DECISION REFUSING JOINDER

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed August 30, 2004 (certificate of mailing date August 27, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Response to Decision Refusing Joinder." **Failure to respond will result in abandonment of the application.**

Papers filed on August 30, 2004 (certificate of mailing date August 27, 2004) included a declaration executed by the three living inventors and the previously non-signing representative of the deceased inventor, Ms. Maourina.

The declaration is not acceptable because only **one citizenship** is listed for both the deceased inventor, Vladimir Karasik, and legal representative, Anjella Maourina. As stated in the prior decision, "Pursuant to 37 CFR 1.67(a)(2), Ms. Maourina must execute a supplemental declaration listing her correct information and identifying all joint inventors and their information. Only Ms. Maourina's signature is required on the supplemental declaration." The declaration must list the legal representative's and all the joint inventors' information. Both the legal representative's and the deceased inventor's citizenship must be listed on the declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Brandsberg, et al. :
Application No.: 10/716,210 :
Filed: November 18, 2003 :
Attorney Docket No.: 7003 :
For: LOW LOSS SUPERCONDUCTING CABLE IN CONDUIT CONDUCTOR

DECISION NOTING JOINDER OF LEGAL REPRESENTATIVE AND PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

Papers filed on June 2, 2005 (certificate of mailing date May 31, 2005) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on April 28, 2005, included a Declaration signed by the previously nonsigning legal representative of a deceased inventor, Ms. Anjella Maourina, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to Technology Center GAU 2841 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ZIMMERMAN & CRONEN, LLP
SUITE 710
1330 BROADWAY
OAKLAND CA 94612

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DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Farah D. Morton :
Application No. 10/716,247 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. 4460 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 28, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/716,247	**Applicant(s)** MORTON, FARAH D.	
	Examiner James M. Hewitt	**Art Unit** 3679	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 October 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: *13-15*.
   Claim(s) objected to: *1-12,17,19-30 and 35-54*.
   Claim(s) rejected: *16,18,31-34 and 55-75*.
   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: _____.

JAMES M. HEWITT
PRIMARY EXAMINER

Continuation of 3. NOTE:

The status identifiers should not include the phrases "to add indentations only" and "to add indentations only in this amendment". In claim 9, line 13, the semicolon is underlined indicating that it has been added in this amendment. This contradicts the given status identifier. In claim 19, line 9, the phrase "of the two" is double underlined. In claim 29, line 11, "sale" is incorrect. In claim 31, lines 10-11, the phrase "said pad configured to have a proximal end abut said end panel" is underlined and includes strikethrough. In claim 35, line 8, the phrase "of the two" is double underlined. In claim 36, line 8, the phrase "of the two" is double underlined. In claim 40, line 1, "wherein" is underlined and includes strikethrough. In claim 41, line 2, "wherein" is underlined and includes strikethrough. Refer to MPEP 37 CFR 1.173, which in section (b)(2) states in part "For any claim changed by the amendment paper, a parenthetical expression 'amended,' 'twice amended,' etc., should follow the claim number. Each changed patent claim and each added claim must include markings pursuant to paragraph (d) of this section, except that a patent claim or added claim should be canceled by a statement canceling the claim without presentation of the text of the claim.", in section (c) states "Whenever there is an amendment to the claims pursuant to paragraph (b) of this section, there must also be supplied, on pages separate from the pages containing the changes, the status (i.e., pending or canceled), as of the date of the amendment, of all patent claims and of all added claims, and an explanation of the support in the disclosure of the patent for the changes made to the claims.", in section (d) states "Any changes relative to the patent being reissued which are made to the specification, including the claims, upon filing, or by an amendment paper in the reissue application, must include the following markings: (1) The matter to be omitted by reissue must be enclosed in brackets; and (2) The matter to be added by reissue must be underlined, except for amendments submitted on compact discs (§§ 1.96 and 1.821(c))" and in section (g) states "All amendments must be made relative to the patent specification, including the claims, and drawings, which are in effect as of the date of filing of the reissue application."

Claims 31-32, 55-62 and 64-68 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. The claims do not contain the limitations that made the claims in the parent allowable.

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ZIMMERMAN & CRONEN, LLP
SUITE 710
1330 BROADWAY
OAKLAND CA 94612

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Farah D. Morton	:	
Application No. 10/716,247	:	DECISION GRANTING PETITION
Filed: November 17, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4460	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 30, 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/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 28, 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 3679 to consider the RCE/Amendment, submitted with the petition on January 30, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Michael Richard Barrett	: DECISION ON REQUEST FOR
Patent Number	: 7660795	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/716,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **634** 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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BEYER WEAVER & THOMAS
P.O. BOX 778
BERKELEY, CA 94704-0778

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Frank E. Gennari :
Application No. 10/716,266 : DECISION ON PETITION
Filed: November 17, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. UCALP011X1/B02-005-3 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on November 17, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed provisional application has been included in the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the

petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/322,381 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.

After this decision is mailed, deposit account No. 50-0388 will be charged $1,330.00 for the petition fee.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685. 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 2877 for appropriate action on the amendment submitted April 9, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/322,381.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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FEB 11 2005

SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

In re Application of	:	
George K. Strohmaier, et al.	:	
Serial No.: 10/716,292	:	PETITION TO MAKE SPECIAL
Filed: November 18, 2003	:	
Attorney Docket No. P-22,888 E USA	:	

This is in response to applicant's petition filed on February 3, 2005, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant. No fee is required for this petition.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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MAR 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Dirk N. Yerian et al. :
Application No. 10/716,307 :
Filed: November 18, 2003 :
Attorney Docket No. 36110 :
For: Powder Preheating :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 16, 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.

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.

The Office of Publications will be informed of the instant decision so that a patent may be issued 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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OFFICE OF PETITIONS

In re Application of :
John M. Stewart et al :
Application No. 10/716,314 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. P26,473-A USA :

This is a decision on the petition, filed August 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 10, 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 1656 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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IV (TRANSMETA)
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

Mail Date: 04/21/2010

Applicant	: Guillermo J. Rozas	: DECISION ON REQUEST FOR
Patent Number	: 7646835	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/716,320	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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APR 18 2008

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Pamela J. Sherwood, Ph.D.
BOZICEVIC, FIELD & FRANCIS, LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Application of	:
Berg	:Decision on Petition
Serial No.: 10/716,349	:
Filed : 17 November 2003	:
Attorney Docket No.: SEEK-001CON	:

This letter is in response to the Petition filed on 9 April 2008 to requests review of the restriction requirement.

BACKGROUND

This application was filed under 35 USC 111(a) and as such is eligible for US restriction practice under 35 USC 121 and chapter 800 of the MPEP.

On 23 June 2006, the examiner required an election of species between
Species A (claim 18) wherein the test cell culture and the control cell culture comprise at least two different cell types or
Species B, (Claim 19) wherein the cell are primary cells.

Claims 17 and 20-22 were indicated as generic.

On 24 July 2006, applicants elected Species B, primary cells without traverse.

On 24 October 2007, the examiner withdrew claim 18 from consideration and rejected claim 17 under 35 USC 112, 2nd paragraph, claims 17 and 19-22 under 35 USC 102(e) as being anticipated by Friend et al., and rejected claims 17 and 19-22 under nonstatutory double patenting.

On 23 April 2007 Applicants responded to the Office action and by the addition of new claim 23.

On 26 June 2007, the examiner mailed a Final Office action in which claims 18 and 23 were with drawn from consideration as being directed to non-elected inventions. Claim 18 is directed to non-elected Species A. Claim 23 was considered distinct from the originally presented claims. Claims 17 and 19-22 were rejected under 35 USC 102(e) and nonstatutory double patenting.

On 26 October 2007, applicants filed a request for continued examination.

On 22 October 2007, the examiner mailed an Office action in which claims 18 and 23 were with drawn from consideration as being directed to non-elected inventions. Claim 18 is directed to non-elected Species A. Claim 23 was considered distinct from the originally presented claims. Claims 17 and 19-22 were rejected under 35 USC 102(e) and nonstatutory double patenting.

This petition was filed on 9 April 2008.

DISCUSSION

This file history and petition have been carefully considered.

The petition requests rejoinder of Claims 18 and 23. Each claim will be treated in turn.

Claim 18 is directed to non-elected species (A). In order to preserve the right to petition under 37 CFR 1.144, applicants must elected with traverse.

> 37 CFR 1.144. Petition from requirement for restriction.
>
> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181). (Emphasis added)

It is noted that applicant elected Species (B) without traverse in the papers filed 24 July 2006, so this petition decision will not address the election of species required between claim 18 and 19 in the original restriction requirement.

Moreover, request for rejoinder of Claim 18 is premature, given the fact that the generic claims 17 and 20-22 are currently not in condition for allowance. Per MPEP 821.04,

> The propriety of a restriction requirement should be reconsidered when all the claims directed to the elected invention are in condition for allowance, and the nonelected invention(s) should be considered for rejoinder. Rejoinder involves withdrawal of a restriction requirement between an allowable elected invention and a nonelected invention and examination of the formerly nonelected invention on the merits.
>
> In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim. (Emphasis added)

For these two reasons, the withdraw of claim 18 from examination is considered proper.

Turning now to Claim 23, it was not pending at time of restriction requirement. Claim 23 was added after the first Office action on the merits. 37 CFR 1.145 addresses the treatment of subsequently presented of claims for different invention:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144

Claim 17 and 23 are compared as follows:

Claim 17. A method for analyzing a candidate compound for a biological activity of interest, the method comprising	Claim 23. A method for characterization of a biologically active agent, the method comprising
contacting a test mammalian cell culture with said compound, wherein said culture comprises a plurality of factors wherein a plurality of signaling pathways are induced by the presence of the factors	contacting said agent with human primary cells in at least one cell culture assay combination comprising at least two factors acting on said cells
measuring at least two parameters associated with said plurality of pathways and comparing the measurement of said at least two parameters with the measurement from a control cell culture lacking said compound, and	recording changes in at least three different cellular parameter readouts as a result of introduction of said agent
recording said measurements of said test cell culture and said control cell culture to preoduce a biological dataset profile, wherein said biological dataset profile is indicative of the pathways that are active in said culture cells.	deriving a biomap from said changes in parameter readouts, wherein said biomap comprises data normalized to be a ratio of test to control data on the same cell type under control conditions in the absence of said biologically active agent, and said parameters are optimized so that the set of data in the biomap is sufficiently informative that it can discriminate the mechanism of action of said agent
	analyzing said biomap by a multiparameter pattern recognition algorithm to qualify the relatedness of said biomap to reference biomaps that include known agents that target specific pathways, wherein the presence or absence of relatedness to said reference biomaps provides a characterization of said agent.

To establish distinction between Claim 17 and 23:

Claim 17 and Claim 23 are directed to related processes. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed each require a characteristic not required for the other method. For example, Claim 17 requires signaling pathways which are not required for Claim 23. Claim 23 requires parameters that are optimized so that the set of data in the biomap is sufficiently informative that it can discriminate the mechanism of action of said agent, which is not required for clam 17. Moreover, Claim 17 results in information about the pathways which are active in the culture. Claim 23 results in information concerning the characterization of the agent. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants

To establish burden:

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;
(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
(d) the prior art applicable to one invention would not likely be applicable to another invention;
(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicants comments concerning claims filed in copending applicants are considered immaterial.

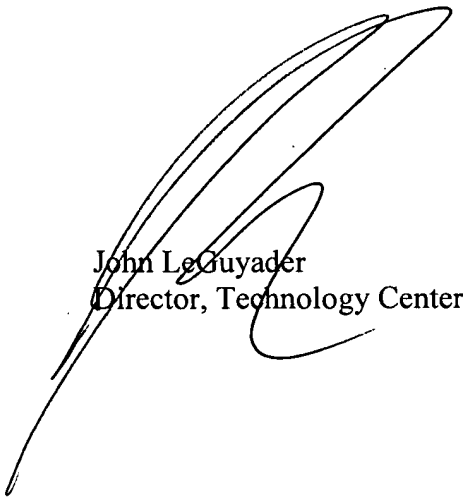
DECISION

For these reasons, the petition is **DENIED.**

Applicants remain under obligation to respond to the Office action mailed 22 October 2007 within the time period set therein or extendable under 37 CFR 1.136(a).

Any request for reconsideration must be filed within TWO MONTHS of the mailing date for this action.

Should there be any questions regarding this decision, please Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.



John LeGuyader
Director, Technology Center 1600

OIPE JC11
AUG 20 2004
PATENT & TRADEMARK OFFICE

JFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of BANEY et al.

Application No.: 10/716,369 Examiner: M. Moore

Date Filed: November 18, 2003 Group: 1752

For: PROCESS FOR SIBCN BASED PRECERAMIC POLYMERS AND PRODUCTS DERIVABLE THEREFROM

CERTIFICATE UNDER 37 CFR 1.8(a)
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 8/18/04.

Neil R. Jetter, Reg. No. 46,803

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §1.102 and MPEP 708.02, paragraph IV, Applicants hereby petition to make special for an advancement of examination for United States patent application no. 10/716,369. Pursuant to 37 C.F.R. §1.102(c) no statutory fee is required for this Petition. However, the Commissioner is hereby authorized to charge any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing, or during prosecution of this application to Deposit Account No. 50-0951.

In accordance with the provisions of 37 CFR §1.102(c) and MPEP 708.02, paragraph IV, entitled "APPLICANTS AGE" Applicants respectfully request

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

MAY 11 2005

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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
10/716,376	11/17/2003	2666	1252	10559-910001 / P18019	6	30	5

CONFIRMATION NO. 4375

20985
FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

CORRECTED FILING RECEIPT

OC000000016454758

Date Mailed: 07/06/2005

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)

Niall D. McDonnell, Limerick, IRELAND;

Power of Attorney:

Frederick Rabin--24488
Denis Maloney--29670
David Feigenbaum--30378
Alan Aldous--31905
Scott Harris--32030
Mark Seeley--32299
David Simon--32756
Dorothy Whelan--33814
Robert Anderson--33826
Bradley Greenwald--34341

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/716,376

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Timeslot assignment

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of : ON PETITION
Fischer :
Application No. 10/716,403 :
Filed: November 20, 2003 :
Dkt. No.: 080437.52870US :

This is a decision on the petition under 37 CFR 1.55(a), filed March 24, 2005 for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in § 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and § 1.323. See, 37 CFR 1.55(a)(2).

Receipt is acknowledged of papers submitted under 35 U.S.C. 119. The priority papers are accepted as timely filed and have been placed of record in the file.

The Office hereby acknowledges receipt of the required processing fee.

Petitioner is advised that the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and § 1.323. See, 37 CFR 1.55(a)(2).

Telephone inquiries related to this decision may be directed to Alesia M. Brown at (571) 272-3205.

Frances Hicks
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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ON PETITION FEB 08 2005
OFFICE OF PETITIONS

In re Application of :
Daniele Bianchi, et al. :
Application No. 10/716,460 :
Filed: November 20, 2003 :
Attorney Docket No. 245677US0X :

This is a decision on the petition, filed January 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 23, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1621 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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1940 DUKE STREET
ALEXANDRIA VA 22314

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APR 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Taku Kodama et al	:	
Application No. 10/716,463	:	DECISION GRANTING PETITION
Filed: November 20, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 245648US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 4, 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 March 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

JUN 3 0 2005

In re Application of:

Application No. 10/716,467
Filed: November 20, 2003
Attorney Docket No. Q78456

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due mailed March 11, 2005 and the Notice of Allowability mailed March 7, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Frank G. Font at (571) 272-2415.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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GEORGIA-PACIFIC LLC
133 PEACHTREE STREET NE - GA030-41
ATLANTA, GA 30303

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JUN 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,634,421	:	
Issue Date: December 15, 2009	:	
Application No. 10/716,477	:	DECISION ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 12608	:	

This is a decision on the petition, filed, December 3, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Georgia-Pacific Consumer Products LP. Petitioner further states that the assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Georgia-Pacific Consumer Products LP were the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: MATTHEW T. NESBITT
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP.
303 PEACHTREE STREET, NE
3500 SUNTRUST PLAZA
ATLANTA, GA 30308

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Peter A. Borsari
Borsari & Associates, P.C.
3 South Fieldway
Rehoboth Beach, DE 19971

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MAY 03 2010

OFFICE OF PETITIONS

In re Patent No. 6,880,794
Issue Date: April 19, 2005
Application No. 10/716,541
Filed: November 20, 2003
Attorney Docket No.

REQUEST FOR INFORMATION

This is a decision on the petition, filed January 13, 2010 under 37 CFR 1.378(c) to accept an unintentionally delayed payment of a maintenance fee in an expired patent.

The petition is **dismissed** and the merits of the petition will not be addressed because the petition is not signed.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

In any reconsideration petition, patentee is encouraged to file another copy of the petition properly signed.

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. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record until appropriate change of correspondence address/power of attorney documents are filed..

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: PETER KAHN
381 SOUTH COUNTY ROAD
BROOKHAVEN, NY 11719

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jason P. Webb
8841 S Redwood Rd
Suite C
West Jordan UT 84088

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 6,880,794
Issue Date: April 19, 2005
Application No. 10/716,541
Filed: November 20, 2003
Attorney Docket No. 3304.2.5np

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.378(c)

This is a decision on the petition, filed May 14, 2010, under 37 CFR 1.378(b) to accept an unintentionally delayed payment of a maintenance fee in an expired patent.

The petition is **GRANTED**.

This patent expired on April 20, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

The patent file is being forwarded to Files Repository.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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AUG 27 2007

OFFICE OF PETITIONS

SCOTT BOALICK
USPTO
600 DULANY STREET
ALEXANDRIA, VA 22313

In re Application of	:	
Tomas I. Babic et al.	:	
Application No. 10/716,543	:	DECISION ON PETITION
Filed: November 20, 2003	:	TO WITHDRAW
Attorney Docket No. 08215-539001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is a Notice of Appeal filed August 9, 2007 that requires the filing of an Appeal Brief.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON P.C.**
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,566	11/20/2003	Martin Cousineau	672-B01.US	7047

7590 07/15/2010

Franz BONSANG
c/o PROTECTIONS EQUINOX INT'L INC.
Suite 224
4480, Cote-de-Liesse
Montreal, QC H4N 2R1
CANADA

EXAMINER	
DUNWOODY, AARON M	

ART UNIT	PAPER NUMBER
3679	

MAIL DATE	DELIVERY MODE
07/15/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Franz Bonsang
c/o PROTECTIONS EQUINOX INT'L INC.
Suite 224
4480, Cote-de-Liesse
Montreal, QC H4N 2R1
Canada

In re Application of	:	
Martin Cousineau	:	
Application No. 10/716,566	:	DECISION ON PETITION
Filed: November 20, 2003	:	UNDER 37 CFR 1.181
For: HOSE CLAMP	:	

This is in response to applicant's communication filed October 25, 2005 which was entered as a miscellaneous communication. The communication clearly states that it is not to be construed as a response to the Office action mailed September 14, 2005. The issues raised by this communication pertain to the completeness of the Office action. Accordingly, this communication will now be treated as a petition requesting a complete Office action.

The petition is **DENIED**.

Applicant alleges that the non-final rejection mailed September 14, 2005 is incomplete because the examiner has failed to address all of applicant's arguments from the previous response filed on August 5, 2005 and has failed to discharge his duty to establish a *prima facie* case of obviousness.

At the outset, it should be noted that "*prima facie*" case is nothing more than a procedural tool of patent examination which allocates burdens of going forward between the examiner and applicant. When obviousness is at issue, the examiner has the burden of persuasion and therefore the initial burden of production. Satisfying the burden of production, and thus initially the burden of persuasion, constitutes the so called *prima facie* showing. Once this burden has been met, applicant has the burden of production to demonstrate that the examiner's preliminary determination is not correct.

A review of the Office action of September 14, 2005 reveals that the Office action included a rejection under 35 U.S.C. 112, first paragraph, of claims 1-12 and 15-24 (sic, 16-24 since claim 15 was canceled) on page 3, a rejection under 35 U.S.C. 103(a) of claims 1-12 and 16-24 on pages 4-7, and a response to arguments on pages 8 and 9.

MPEP 2141 clearly sets forth the examination guidelines for an obviousness rejection. It is stated therein that "*these guidelines do not constitute substantive rule making and hence do not have the force and effect of law. They have been developed as a matter of internal Office management and are not intended to create any right or benefit, substantive or procedural, enforceable by any party against the Office... any failure by Office personnel to follow the guidelines is neither appealable nor petitionable.*" Further still, section IV of MPEP 2141 stated with respect to a reply from applicant that a mere statement that the Office has not established a *prima facie* case of obviousness will not be considered substantively adequate to rebut the rejection or an effective traverse of the rejection under 37 CFR 1.111(b).

Applicant makes reference to MPEP 707.07(f), MPEP 706.02(j) and 37 CFR 1.104(c)(2) in his allegations that the examiner has failed to address all of applicant's arguments. However, it is noted that applicant has not stated what arguments were not addressed. Accordingly, it appears that the gist of applicant's allegations is that the Office action is not considered to be detailed enough, though it is not explained what details are lacking. Nevertheless, the fact that applicant disagrees with the rejection of record is not an indication that the examiner failed to clearly explain his position or that the action is incomplete. Further, as previously noted above, merely alleging that a *prima facie* case was not set forth is not substantively adequate nor an effective traverse of the rejection.

Applicant's reference to 37 CFR 1.104(c)(2) and MPEP 706.02(j) to infer some omission on the part of the examiner is not persuasive. In particular, it is pointed out that the rejection of record utilizes numerous reference numerals to identify various parts of the reference being relied upon and includes identification of where the motivation is found in the secondary reference by column and line number.

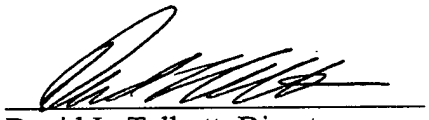
It is further noted that applicant's invention is drawn to a band clamp for a hose. A band clamp is not a complex invention. The references of the rejection are also band clamps. There is no strained interpretation of either of these references by the examiner and therefore the rejection of record is seen to provide a clear enough explanation of the position taken. Applicant has failed to explain why the examiner's rejection of record cannot be understood or why the applied references cannot be reviewed and understood.

With respect to MPEP 707.07(f) and the examiner's action, it is pointed out that page 8, paragraph 2, sets forth the response to applicant's argument regarding support for "stainless steel". Page 8, paragraph 4, and the paragraph bridging pages 8-9 set forth the response to applicant's arguments regarding lack of motivation and the references not being combinable. Page 8, paragraph 3, sets forth the response to applicant's arguments regarding the functional characteristics recited in the claim.

With respect to the comments regarding the denial of an interview after final rejection, it is pointed out that MPEP 713.09 sets forth the Office policy on such interviews. Applicant has provided no indication of any proposed changes to be discussed and none is found in the file record. Nevertheless, if the purpose was merely to restate arguments or otherwise sound out the examiner as opposed to presenting specific proposed changes, then MPEP 713.09 instructs that such interviews should be denied.

In summary, the previous Office action is deemed to be complete and responsive to the points raised by applicant in his response(s) and will not be withdrawn or vacated. The fact that applicant does not agree with the examiner's position or otherwise desires a more detailed explanation to be convinced is immaterial to the question of whether or not the examiner provided a response. Finally, the correctness of the examiner's position is an appealable issue, not a petitionable issue, and therefore will not be addressed herein.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.



David L. Talbott, Director
Technology Center 3600
(571) 272-1934
Facsimile No.: (571) 273-8300

DS/LM: 6/14/10
LM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 7, 2006

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/716569 Patent No.: 6,969,221

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: _____

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

SPE

3676
Art Unit

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LEESBURG, VA 20176

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OFFICE OF PETITIONS

In re Application of :
Sigismondo A. DeTora et al :
Application No. 10/716,581 : ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. 67554 :

This is a decision on the petition under 37 CFR 1.173(b), filed March 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 19, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 20, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of February 19, 2004 is accepted as having been unintentionally delayed.

Pursuant to petitioner's authorization, Deposit Account No. 50-2735 was charged a total of $1,630.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application and $130.00 for the surcharge.

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

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THOMAS E. ANDERSON
HUNTON & WILLIAMS LLP
1900 K STREET, N.W.
WASHINGTON, DC 20006-1109

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OFFICE OF PETITIONS

In re Application of :
Michael Farmwald, et al. :
Application No. 10/716,595 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. 57941.000062 :

This is a decision on the petition, filed December 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 22, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed December 20, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of :
Michael Farmwald et al :
Application No. 10/716,595 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. 57941.000062 :

This is a decision on the petition filed June 29, 2006, under 37 CFR 1.313(c)(2), 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 was mailed on April 12, 2006, with the issue fee being due on or before July 12, 2006. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of April 12, 2006, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. 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.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2827.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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1900 K STREET, N.W.
WASHINGTON, DC 20006-1109

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael Farmwald et al	:	DECISION GRANTING
Application No. 10/716,596	:	PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 57941.000063	:	

This is a decision on the petition under 37 CFR 1.182, filed August 17, 2004, which is being treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of November 20, 2003, with pages 1-17 as a part of the original disclosure.

The petition is **GRANTED**.

The application was filed on November 20, 2003. On August 9, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice)" stating that the application had been accorded a filing date of November 20, 2003, but that pages 1-17 of the specification appeared to have been omitted from the application.

In response to the Notice, applicants timely filed the present petition on August 17, 2004 and argue that pages 1-17 were filed with the application on November 20, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing "125 pages specification." The petition also encloses copies of pages 1-17 purportedly filed on November 20, 2003.

In view of the evidence presented, the Office concludes that pages 1-17 were filed on November 20, 2003, but were later misplaced. Accordingly, the petition is granted.

The $130.00 petition fee is being credited to Deposit Account No. 50-0206 as authorized.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for further

processing with the filing date of November 20, 2003, using the application papers filed on that date, and the copy of pages 1-17 of the specification supplied with the present petition, and for indicating in the USPTO record that pages 1-17 of the specification were present on filing.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 111904

JUN 2 8 2005

FOLEY & LARDNER
3000 K STREET, NW
SUITE 500
WASHINGTON, DC 20007

In re Application of:	:	
WILSON	:	
Serial No.: 10/716,600	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 20, 2003	:	FROM RECORD
Attorney Docket No.: **040849-0254**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 06, 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 Leon Radomsky, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the assignee, Colin Wilson, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET ROOM, BLDG. K1-4A59
P.O. BOX 8
SCHENECTADY, NY 12301

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Date : May 28, 2008

Patent No. :7,323,295
Inventor(s) :Nurith SHAKLA et al.
Issued :January 29, 2008
Title :METHOD FOR EXTENDED STORAGE OF VIABLE AND PATHOGEN-SAFE BLOOD :AND BLOOD COMPONENTS USING CARBON MONOXIDE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction.

Review of the application file has revealed the omission of the Foreign Priority data on the printed patent as a result of applicant's failure to fully comply with 35 U.S.C. 119, in that conditional requirements were not met. Applicant's attention is directed to MPEP 201.14(a), 37 CFR 1.17(i).

In view of the forgoing, applicant's request in this matter is hereby denied.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9390 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9390 Ext 123

Mark M. Friedman, LTD
C/O Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

/arg

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PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Someya, et al.	:	
Application No. 10/716,634	:	DECISION ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 1190-0584P	:	

This is a decision on the "PETITION TO WITHDRAW ABANDONMENT AND OPTIONAL PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(B)", filed April 25, 2006. The petition was recently forwarded to the Office of Petitions for consideration.

The petition to withdraw the holding of abandonment is **GRANTED.**

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT.**

The above-identified application was held abandoned for failure to timely respond to a Corrected Notice of Allowance, mailed September 1, 2005. This Notice set a statutory period for reply of three (3) months. No response to the Notice of Allowance having been received, the application became abandoned on December 2, 2005. The Office mailed a Notice of Abandonment on April 6, 2006. In response, Applicants timely filed the instant petition.

Petitioner argues that the Corrected Notice of Allowance should never have been mailed. Petitioner points out, and a review of the record confirms, that the Office mailed a first Notice of

Allowance and Notice of Allowability on May 3, 2005. Applicants timely filed the issue fee on August 2, 2005 (the Notice of Allowability did not require a response). Thereafter, according to petitioner, the examiner initiated a telephone interview on August 29, 2005, and obtained approval for an Examiner's Amendment. In response, the Office mailed a Supplemental Notice of Allowability and a Corrected Notice of Allowance.

The Office agrees with petitioner's contention that in this instance, the Corrected Notice of Allowance should not have been mailed.

In view thereof, **the holding of abandonment is withdrawn.**

Given the basis for granting this petition, the $1500 fee for the petition to revive has been refunded to Deposit Account No. 02-2448.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of :
Ellen Golds, et al. :
Application No. 10/716,639 : ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. 760-57 RCE/CON :

This is a decision on the petition, filed May 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated June 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 3731 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of :
Mario Magnini :
Application No. 10/716,673 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. 2508-1016 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 27, 2005.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PLOTKIN & KAHN, PLLC
Suite 400
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

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OFFICE OF PETITIONS

In re Application of	:	
Nishikawa et al.	:	
Application No. 10/716,675	:	
Filed: November 20, 2003	:	
Patent No. 6,954,045	:	ON PETITION
Issued: October 11, 2005	:	
Attorney Docket No.	:	
107355-00094	:	

This is a decision on the petition filed October 21, 2005, pursuant to 37 C.F.R. §3.81(b), to request a change in the name of the assignee after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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Chicago, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Sato Kiyoshi	:	
Application No. 10/716710	:	DECISION ON APPLICATION
Filed: 11/17/2003	:	FOR PATENT TERM ADJUSTMENT
Patent No. 7,209,322	:	
Issued: 04/24/2007	:	
Attorney Docket Number:	:	
9281-4693	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment", filed June 25, 2007. Patentee requests, pursuant to 37 CFR 1.703(b), an additional period of adjustment of one hundred fifty-eight (158) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

Patentee is given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136.

On April 24, 2007, the above-identified application matured into U.S. Patent No. 7,209,322. The patent issued with a PTA of five hundred sixteen (516) days.

The Office determined a patent term adjustment of five-hundred sixteen (516) days pursuant to 37 CFR 1.702(a)(1) for failure to mail a first Office action of Notice of Allowance more than 14 months after the actual filing date of the application or more than 14 months after the date the application fulfilled the requirements of 35 U.S.C. 371. Specifically, the application was filed on November 17, 2003. The Office mailed a first Office action on June 19, 2006.

Petitioner files the present petition and asserts that pursuant to 37 CFR 1.703(b) an additional period of adjustment of one hundred fifty-eight days. Petitioner states that the present application was filed on November 17, 2003. The 3 year date specified in 37 CFR 1.703(b) is November 17, 2006. The PTO issued a patent for the present application on April 24, 2007. The difference between the 3 year date and the date the patent issued is 158 days. As such, Applicant concludes that the period of adjustment should be at least 518 days + 158 days – 2 days = 674 days.

Patentee is advised that 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay totalling 158 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 516 attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment was entered beyond the 516 days.

In view thereof, the patent correctly issued with a revised Patent Term Adjustment of five hundred sixteen (516) days.

Petitioner's deposit account has been charged the $200.00 fee set forth in 37 CFR 1.18(e) as authorized in the Transmittal filed with the petition. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Randal D. Homburg
P.O. Box 10470
Midwest City OK 73140-1470

In re Application of
Franklin Charles Karner
Application No. 10/716,733
Filed: November 19, 2003
For: **MEDICAL ALERT MAT WITH REMOTER PAGER**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed November 19, 2003 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of Mr. Karner's birth certificate evidencing that he 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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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
10/716,736	11/17/2003	2853	770	1232-5205	7	1	1

CONFIRMATION NO. 6986

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

CORRECTED FILING RECEIPT

OC000000014685728

Date Mailed: 12/07/2004

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)

Toshihiko Ujita, Kanagawa, JAPAN;
Junji Shimoda, Kanagawa, JAPAN;

Power of Attorney:

Joseph Calvaruso–28287

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-343928 11/27/2002

If Required, Foreign Filing License Granted: 02/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/716,736

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ink jet recording apparatus

Preliminary Class

347

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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SANDRA SENZON
200 MADISON AVE.
NEW YORK, NY 10016

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In re Application of :
Sandra Senzon :
Application No. 10/716,742 : DECISION ON PETITION
Filed: May 21, 2004 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application.

The petition is **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 Rejection mailed, February 8, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on May 9, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D).

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 "under 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 May 9, 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 Sandra Senzow was pro se applicant at the time of abandonment, she should explain why this application became abandoned while it was under her control and what efforts she made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all 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, almost 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 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).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Sandra Senzon
405 Lexington Avenue, Ste. 6900
New York, NY 10174

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Paper No.

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. 7,212,378	:	
Sato et al.	:	DECISION ON REQUEST
Issue Date: May 1, 2007	:	FOR
Application No. 10/716,743	:	RECONSIDERATION OF
Filed: November 17, 2003	:	PATENT TERM ADJUSTMENT
Title: THIN FILM MAGNETIC HEAD HAVING TOROIDAL COIL	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 2, 2007. Patentees request that the patent term adjustment indicated in the patent be corrected from five hundred four (504) days to six hundred sixty-nine (669) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On May 1, 2007, the above-identified application matured into U.S. Patent No. 7,212,378. The present request for reconsideration filed July 2, 2007 was timely filed within 2 months of the date the patent issued[1]. See § 1.705(d). The Patent issued with a Patent Term Adjustment of 504 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 669 days on the basis that the patent issued 3 years and 165 days after the date on which the application was filed.

[1] It is noted that July 1, 2007 fell on a Sunday.

It is agreed that the present patent issued 3 years and 165 days after its filing date.

However, 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 that 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), 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 504 days attributable to grounds specified in 37 C.F.R. § 1.702(a)(1) overlaps with the 165 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 504 days.

In view thereof, the patent properly issued with a patent term adjustment of 504 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e), which has been charged to Petitioner's Deposit Account, as authorized in the petition. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 19 2005

GEORGE A LEONE, SR
2150 128TH AVENUE, NW
MINNEAPOLIS MN 55448

In re Application of :
Mark E. Fauver, et al :
Serial No.: 10/716,744 : DECISION ON PETITION
Filed: November 18, 2003 :
For: Method and Apparatus of Shadowgram:
Formation For Optical Tomography :

This is in response to applicants' petition filed on June 28, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(a), as it relates to Cancer.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02(X). 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 Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

In re Application of
Lucas, Fisher, McJones, Parsons, and Tayeban
Application No.: 10/716,759
Filed: November 18, 2003
Attorney Docket No: 51511/RAG/M743
For: INTEGRATED CIRCUIT AND MAGNETIC STRIPE READER

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed October 1, 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 18, 2003, without an executed oath or declaration. On February 26, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed, indicating that a proper oath or declaration was required and a surcharge for the late filing of the same. The notice allowed an extendable period for response of the two months from its mailing date. The instant petition was filed on October 1, 2004, along with a request for an extension of time within the fifth month. In the instant petition, petitioner maintains that inventor Lucas is unavailable to join the prosecution of the above-cited application.

Petitioner has shown that inventor Lucas is unavailable to join the prosecution 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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RAJA SINGH TULI
SUITE 1130
555 RENE LEVESQUE
MONTREAL QC H2Z 1B1 CA CANADA

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of :
Raja Singh Tuli, et al. :
Application No. 10/716,796 : DECISION ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 13, 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, June 1, 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 September 2, 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 April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2813 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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A LEXANDRIA, VA 22314

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Raja Singh Tuli, et al.	:	
Application No. 10/716,796	:	DECISION ON REQUEST FOR
Filed: November 20, 2003	:	REVOCATION OF POWER
Attorney Docket No.	:	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 December 18, 2008.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to

take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of **two applicants and the one signing has not been given a power of attorney** by the other applicant.

Therefore, as the power of attorney and correspondence address indication form is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Raja Singh Tuli) was ever given a power of attorney to act on behalf of inventor Ricardo Izquierdo, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the power of attorney and correspondence address indication form is considered improper.

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: **RAJA SINGH TULI**
555 RENE LEVESQUE
SUITE 1130
MONTREAL QC H2Z 1B1 CA
CANADA

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
Raja Singh Tuli, et al. :
Application No. 10/716,796 : DECISION ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2008, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed

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.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, May 29, 2007, which set a shortened statutory period for a reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission

(37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time under the provisions 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The power of attorney submitted with the petition on December 18, 2008 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2813 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: blank 37 CFR 3.73(b)

cc: **RALPH A. DOWELL**
DOWELL & DOWELL P.C.
2111 EISENHOWER AVE
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A LEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Gregory Stephanopoulos :
Application No. 10716,825 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. MIN-P01-042 :

This is a decision in response to the petition, filed October 2, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 December 16, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On August 17, 2006, a Notice of Abandonment was mailed. In response, on October 2, 2006 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) the requisite 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. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $1,080 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1639 for consideration of the response filed October 2, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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In re Application of

APPEL, Brian S. et al.
Application No. 10/716,839
Filed: November 18, 2003
Attorney Docket No. **061136-0014US**

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 27, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **THOMAS D. KOHLER**
DOWNS RACHLIN MARTIN PLLC
COURTHOUSE PLAZA
199 MAINE STREET
BURLINGTON, VT 05402-0190

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FROM DIRECTORS OFFICE

MAY 17 2005

TECHNOLOGY CENTER 3600

WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, DC 20006

In re Application of :
Hector Fillipus Alexander Van Drentham Susman :
Application No. 10/716,898 :
Filed: November 18, 2003 :
For: DOWNHOLE TOOL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on March 14, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed January 21, 2005, with a Certificate of Mailing dated January 21, 2005 has been found in the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/jwk: 5/11/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Pozzi et al. :
Application No.10/716,907 : DECISION ON PETITION
Filed: November 19, 2003 :
Title of Invention: Automated :
Instruction-set Extension

This is a decision on the petition under 37 CFR §1.137(b) filed November 30, 2005 to revive the above-identified application.

This petition is hereby **Dismissed.**

Any request for reconsideration must be submitted within TWO (2) Months from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are 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 above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on February 19, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 20, 2004. A Notice of Abandonment was mailed on December 1, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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). Although petitioner has provided an executed declaration, the declaration contains non-initialed alterations to the declaration. Specifically, inventor Pozzi has failed to initial the changes made to the declaration. A newly executed supplemental declaration pursuant to 37 CFR 1.67 should be submitted.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of
Pozzi et al.
Application No.10/716,907
Filed: November 19, 2003
Title of Invention: Automated Instruction-set Extension

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b) filed April 20, 2006 to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on February 19, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 20, 2004. A Notice of Abandonment was mailed on December 1, 2004. A petition filed under 37 CFR 1.137(b) was dismissed on February 2, 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 Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of :

POZZI, Laura et al. :
Application No. 10/716,907 : DECISION ON PETITION
Filed: November 19, 2003 : TO WITHDRAW
Attorney Docket No. **90500-000071/US** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Donald J. Daley on behalf of all attorneys of record who are associated with customer No. 30593. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LAURA POZZI**
via MARAINI 1
LUGANO 6900
SWITZERLAND

cc: **BRIAN MICHAELIS**
SEYFARTH SHAW LLP
TWO SEAPORT LANE
SUITE 300
BOSTON, MA 02210

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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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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OCT 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Greg Christopher, Jr.	:	
Application No. 10/716,916	:	DECISION ON PETITION
Filed: November 18, 2003	:	
Attorney Docket No. 07844-602001-P555	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2009, 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 July 20, 2009, as required by the Notice of Allowance and Fee(s) Due mailed April 20, 2009. Accordingly, the date of abandonment of this application is July 21, 2009. A Notice of Abandonment was mailed August 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED

JUL 15 2010

OFFICE OF PETITIONS

In re Patent of Christopher, Jr.	:	DECISION ON REQUEST
Patent No. 7,624,394	:	FOR RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/716,916	:	and
Filed: November 18, 2003	:	NOTICE OF INTENT TO ISSUE
Docket No. 07844-602001-P555	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred eighty-seven (587) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred eighty-seven (587) days is **GRANTED.**

The Office concurs with patentee's assertions that the period of "B Delay" is 169 days and that only 79 days, not 79 + 24 days, of delay should be charged to applicant in connection with the abandonment of the application on July 21, 2009 and subsequent revival of the application on October 8, 2009.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred eighty-seven (587)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,624,394 B1

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Greg Christopher, Jr.

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 U.S.C. 154(b) by 394 days

Delete the phrase "by 394 days" and insert – by 587 days--

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APR 12 2005

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of	:
Colion A. Masters et al	:
Serial No.: 10/716,924	: PETITION TO MAKE SPECIAL
Filed: November 19, 2003	:
Attorney Docket No.: 9287YA	:

This is in response to the petition filed March 17, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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OCT 16 2008

OFFICE OF PETITIONS

In re Application of
L. Keith Lipman et al
Application No. 10/716,944
Filed: November 18, 2003
Attorney Docket No. INWO0053

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed June 10, 2008, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), 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 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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to 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 application is being forwarded to Technology Center Art Unit 2169 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/716,944	11/18/2003	2169	900	INWO0053	20	3

CONFIRMATION NO. 7265

CORRECTED FILING RECEIPT

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

Date Mailed: 10/10/2008

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)

L. Keith Lipman, Gladwyne, PA;
Neil Araujo, Wilmette, ISRAEL;
Rafiq Mohammadi, Chicago, IL;
Mohit Mutreja, Naperville, IL;
Aaron Rangel, North Brook, IL;

Power of Attorney: The patent practitioners associated with Customer Number 22862

Domestic Priority data as claimed by applicant

This application is a CIP of 10/232,572 08/30/2002 ABN
which claims benefit of 60/316,782 08/31/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/716,944**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for matter-centric document management

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 AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/716,970	11/18/2003	3743	900	41052/294321	3	10	2

CONFIRMATION NO. 8909

UPDATED FILING RECEIPT

OC000000012383185

23370
JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

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)

Patrice Martinez, Le Perray En Yvelines, FRANCE;
Philippe Gerard, Beynes, FRANCE;
Benoit Lelievre, Igny, FRANCE;
Dominique Lemasson, Les Clayes Sous Bois, FRANCE;

Domestic Priority data as claimed by applicant

Foreign Applications

FRANCE 02 16679 12/24/2002

If Required, Foreign Filing License Granted: 02/18/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Breathing gas feed assembly for aircraft flight crew, and a stowage box for an emergency breathing mask

Preliminary Class

128

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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MATTHEW R. JENKINS
2310 FAR HILLS BUILDING
DAYTON, OH 45419

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
David L. Allen et al	:	
Application No. 10/716,972	:	ON PETITION
Filed: November 19, 2003	:	
Attorney Docket No. TEL 001 P2 CI-5	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 2, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 3, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 2, 2004 is accepted as having been unintentionally delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on August 26, 2005 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2643.

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
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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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DEC 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Park et al.	:	DECISION
Application No.: 10/716,974	:	
Filing Date: November 19, 2003	:	ON
Docket No.: 60246-292; 10,797	:	
For: Multi-Tube In Spiral Heat Exchanger	:	PETITION

This is in response to the Petition To Request Withdrawal Of Holding Of Abandonment filed on July 20, 2006.

The petition is **GRANTED**.

Review of the record reveals that, on February 27, 2006, a Notice Of Allowance And Fee(s) Due (PTOL-85) identifying the correspondence address of record was mailed but, on March 6, 2006, the United States Postal Service returned the Notice to the USPTO as undelivered due to an "insufficient address:" Inspection of the returned envelope reveals that the correspondence address was not visible thereon. Petitioner subsequently submitted the instant petition and fees on July 20, 2006. In view of the fact that the Notice of Allowance was not properly transmitted to applicants via the USPS, the holding of abandonment is hereby **WITHDRAWN**, and the Issue Fee and Publication Fee paid on July 20, 2006 are being accepted.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: 571-272-3283
Facsimile: 571-273-0459

Conferee: Brian Hearn
Petitions Examiner
Office of Petitions

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JOHN R. CASPERSON
PO BOX 2174
FRIENDSWOOD TEXAS 77549

In re Application of :
Lipps et al : Decision on Petition
Serial No.: 10/716,982 :
Filed : 19 November 2003 :
Attorney Docket No.: FWLPAT019US :

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 6 September 2006 requesting review of the restriction requirement.

BACKGROUND AND DISCUSSION

The examiner mailed out a restriction requirement on 8 May 2006 dividing the original 22 claims into three groups. The examiner considered that the three groups were unrelated, however, a review of the independent claims 1, 21 and 22 (reproduced on the last two pages) which are divided among group I, II and III show that the three groups are all directed to processes of using antibodies to detect cancer markers in human saliva. All three groups require the same essential active step bringing together a reagent containing antibodies made against proteomic cancer markers with a saliva sample.

On 30 May 2006, applicant elected Group I with traverse. Applicants argued that the three inventions were related as disclosed and not independent.

On 7 August 2006, a second examiner considered the traversal, made that restriction requirement final and then set forth a second restriction requirement as to a series of election of species disclosed in the specification. The examiner does not point to any particular table, page or figures which discloses the various "objectives, method steps, and/or dosages and/or schedules used, response variable and criteria for success," etc from which applicants must chose. Moreover, the election of species requirement did not set forth reasons for distinction or burden.

With regard to the first restriction requirement, overlap in scope between claims is addressed in two sections of the MPEP, 806.03 and 806.04(f).

MPEP 806.03 Single Embodiment, Claims Defining Same Essential Features

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

MPEP 806.04(f) Restriction Between Mutually Exclusive Species

> Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.

Groups I, II and III are closely related in terms of active steps, modes of operation, products used and outcome. The processes of Claim 21 and 22 could have been re-written to depend upon from claim 1. Groups I, II and III are related inventions and should be examined together.

With regard to the election of species requirement, again, the Office has not established burden, or distinction or even identified the species from which applicant should chose. No election of species requirement is warranted for this application.

DECISION

For the above reasons, the petition filed under 37 CFR 1.181 is **GRANTED**.

The restriction requirements mailed 8 May 2006 and 7 August 2006 have been withdrawn. The application will be forwarded to the examiner to prepare an action on the merits on the claimed invention.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

Relevant Claims

1. A process comprising

a) bringing together a reagent containing antibodies made against a mixture of proteonic cancer markers with a human saliva sample to form an assay sample, and

b) determining whether an immunological reaction has occurred in the assay sample.

21. A cancer diagnostic method comprising

a) obtaining a saliva specimen from a patient,

b) forming a saliva sample from the saliva specimen,

c) separating the saliva sample into a plurality of portions,

d) bringing the portions of the saliva sample together with a plurality of reagents, a single reagent being brought together with each portion, each reagent containing a separate slate of antibodies made against proteonic cancer markers from different types of cancer cells, one type of cancer cells being used to form each slate of antibodies, to form a plurality of assay samples;

e) conducting a simple ELISA test on each of the plurality of assay samples to obtain an ELISA test result on each of the plurality of assay samples,

f) identifying a most highly positive test result, and

g) associating the most highly positive test result with the type of cancer cells used to produce the antibodies yielding such results to provide the diagnosis.

22. A method for monitoring effectiveness of cancer treatment, said method comprising

a) obtaining a first saliva specimen from a patient,

b) forming a first saliva sample from the first saliva specimen,

c) bringing the first saliva sample together with a reagent containing antibodies made against at least one proteonic cancer marker made from a single cancer cell line to form a first assay sample,

e) conducting a simple ELISA test on the first assay sample to obtain a first ELISA test result on the first assay sample,

f) treating the patient for a cancer represented by the cancer cell line used to make the proteonic cancer marker, and, after a period of time of at least one week,

g) obtaining a second saliva specimen from the patient,

h) forming a second saliva sample from the second saliva specimen,

i) bringing the second saliva sample together with the reagent to form a second assay sample,

j) conducting a simple ELISA test on the second assay sample to obtain a second ELISA test result on the second assay sample, and

k) comparing the second ELISA test result with the first ELISA test result to determine the effectiveness of the cancer treatment.

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MINNEAPOLIS, MN 55402

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Yoshiaki Komma et al	:	
Application No. 10/716,990	:	DECISION GRANTING PETITION
Filed: November 18, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10873.1356US01	:	

This is a decision on the petition, filed March 14, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 6, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar10\716990.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 03, 2005

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 6,878,576

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location 7580 Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please see the drawing changes!

Thank You For Your Assistance

sp
Certificates of Correction Branch
Tel. No. 703-308-9390 x120

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

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_____

SPE **Art Unit** 2812

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE :December 1, 2005

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: [redacted]

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:

_____

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_____ 2818

SPE **Art Unit**

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THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Bo Li, et al. :
Application No. 10/717,028 : DECISION ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 7036566001-3221000 :

This is a decision on the petition filed August 3, 2004, requesting that the above-identified application be accorded a filing date of November 18, 2003.

The application was deposited on November 18, 2003. However, on June 3, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Non-Provisional Application requiring an executed oath or declaration under 37 CFR 1.63, surcharge pursuant to 37 CFR 1.16(e) and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The notice also stated that, while a filing date had been accorded the application papers, a drawing of Figure 9 described in the specification was omitted from the application.

In response, on August 3, 2004, the present petition was filed wherein petitioner argues that 53 pages of drawings and tables were included with the application papers deposited on November 18, 2003. As evidence thereof, petitioner submitted a copy of a postcard showing receipt of "(1) Transmittal (4 pages); (2) Application (Specification 62 pgs; Claims 7 pgs, Drawings 53 pgs; Abstract 1 pg); (4) postcard" on November 18, 2003. Petitioner requests that the application, including a drawing of Figure 9, be accorded a filing date of November 18, 2003. A copy of one sheet of drawing containing Figure 9 was also submitted.

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 items listed thereon on the date stamped thereon by the USPTO. See MPEP 503. A review of the postcard receipt reveals that: (1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on November 18, 2003; (2) it specifically identifies the items being filed, including *inter alia* "Drawings 53 pgs"; and (3) it lacks any annotation of non-receipt of any item denoted on the postcard.

The application papers already considered received in the Office on November 18, 2003, were reviewed along with the missing page of drawing submitted on petition. These papers together constitute the items described on the postcard receipt as "Drawings 53 pgs". Petitioner has shown that a drawing of Figure 9 was among the items present in the application on the date of deposit and should be included in the original disclosure.

Accordingly, the petition is **GRANTED**.

Since the petition was a result of USPTO error, the $130.00 petition fee is being refunded to counsel's deposit account.

It is noted that a communication entitled "Completion of Filing Requirements..." was filed on October 7, 2004, including a declaration and the $130 surcharge. However, applicant did not submit the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 as required by the notice mailed June 3, 2004

Further, the declaration filed October 7, 2004 is not in compliance with 37 CFR 1.63 and 1.64. This declaration includes 1 page 1, 5 page 2, and 1 page 4. Each page 2 includes a signature block for joint inventors Li and Kennedy, identified as "Sole or First Inventor" and "Second Joint Inventor", respectively. However, the name in the signature block in the third position on each of the page 2s vary and are either identified as "Sole or First Inventor" and "Second Joint Inventor." Given the format (page numbering, etc.) of the declaration, it is unclear whether all inventors were presented with a declaration in compliance with §§ 1.63 and 1.64, naming all of the actual inventors. Accordingly, it is concluded that the declaration filed October 7, 2004, is not acceptable

In view of the above, the application is being referred to Initial Patent Examination Division (OIPE) for:

(1) further processing with a filing date of November 18, 2003, using the application papers filed November 18, 2003 and the one (1) sheet of drawing filed August 3, 2004, and an indication on the bibliographic data sheet that twelve (53) sheets of drawings were included on filing; and

(2) appropriate consideration of the response filed October 7, 2004.

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MARC ASCOLESE
CAMPBELL, STEPHENSON, ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

In re Application of: Nandi, et al.
Application No. 10/717,037
Filed: November 19, 2003
For: SYSTEM AND METHOD FOR DYNAMICALLY LOADABLE STORAGE DEVICE I/O POLICY MODULES

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed April 20, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) **Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.**

The petition filed April 20, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above. Reference is made to independent claims 14, 29 and 37 (of the instant application) since these claims vary in scope from the discussion presented in the instant petition with respect to independent claim 1.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

BLJ: 10/15/04

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AUSTIN TX 78759

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MAY 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of : NANDI ET AL.
Application No. 10/717,037
Filed: November 19, 2003
For: SYSTEM AND METHOD FOR DYNAMICALLY LOADABLE STORAGE DEVICE I/O POLICY MODULES

DECISION ON RECONSIDERATION OF PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the Request for Reconsideration filed February 22, 2005 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION, originally filed on April 20, 2004.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

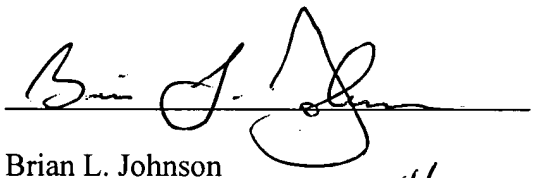
(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/29/05

JC

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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 05/07/2010

Applicant	: William A. Wilkie	: DECISION ON REQUEST FOR
Patent Number	: 7613990	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/717,042	: 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 **1746** 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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YALE S. FINKLE
UNOCAL
P.O. BOX 7600
BREA CA 92822-7600

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of :
David Lush et al :
Application No. 10/717,046 : DECISION GRANTING PETITION
Filed: November 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 022002-03 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of October 6, 2005, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3671.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
STEVEN CHRISTIAN
P.O. BOX 3725
HOUSTON, TX 77253-3725

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of	:	
SOVEL, JAMES E.	:	
Application No.: 10/717068	:	DECISION ON
Filing or 371(c) Date: November 19, 2003	:	PETITION
Attorney Docket Number: **SBL01514**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed April 12, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed January 25, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756 - 1499.

Kendrick Spruill
Application Assistance Unit
Office of Data Management

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WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Richard J. Davies	: DECISION ON REQUEST FOR
Patent Number	: 7630759	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/717,074	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **136** 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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Azure Institute
Intellectual Property Department
4108 Sorrento Valley Boulevard
San Diego, CA 92124

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OFFICE OF PETITIONS

In re Application :
Huiyan Guo et al. :
Application No. 10/717,082 : DECISION ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. E-006U :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 30, 2007 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 July 1, 2007. A Notice of Abandonment was mailed on January 7, 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 election, (2) the petition fee of $770, 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. 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on May 16, 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received May 16, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Fred C. Hernandez
5355 Mira Sorrento Place
Suite 600
San Diego, CA 92121

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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	: Donald Carroll Roe	: DECISION ON REQUEST FOR
Patent Number	: 7589251	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/717,098	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **450** 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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AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

Mail Date: 06/02/2010

Applicant	: Phillip George Skeba	: DECISION ON REQUEST FOR
Patent Number	: 7664138	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/717,102	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1789** 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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Merchant & Gould - ConAgra
P.O. Box 2903
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Constantine Sandu	: DECISION ON REQUEST FOR
Patent Number	: 7569241	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/717,115	: OF WYETH
Filed	: 11/19/2003	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 16, 2006

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/717133 Patent No.: 6,977,168

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: _____

_____

_____

_____

_____

_____ 1654

SPE **Art Unit**

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,135,319 :
Application No. 10/717,138 :
Filed: November 19, 2003 : ON PETITION
Issued: November 14, 2006 :
Attorney Docket No. 16163-031002 :

This is a decision on the request under 37 CFR 3.81(b), filed July 28, 2006, to add the second assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the second assignee's name is Millennium Pharmaceuticals, Inc. and that it was omitted on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to the two assignees: Wyeth and Millennium Pharmaceuticals, Inc.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Wyeth and Millennium Pharmaceuticals, Inc. has been recorded in the parent application, 09/770,834. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that both Wyeth and Millennium Pharmaceuticals, Inc. were the

assignees of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Millennium Pharmaceuticals, Inc, as one of the assignees**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

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ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of :
Engelhardt et al :
Application No. 10/717,140 : DECISION DISMISSING PETITION
Filed: November 18, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Enz-52(C)(D3) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment and petition reference the filing date of Application No. 09/302,817 as being filed on February 3, 1998. The accorded filing date for Application No. 09/302,817 is April 16, 1999. Clarification is required.

Before the petition can be granted, petitioner must submit a substitute amendment, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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OFFICE OF THE DIRECTOR
TC 3600

ROBERT J. VAN DER WALL
SUITE 1620, COLONIAL BANK BUILDING
1200 BRICKELL AVENUE
MIAMI, FL 33131

In re application of : **DECISION ON PETITION**
Donald E, Burg : **TO MAKE SPECIAL**
Application No. 10/717,165 : **(APPLICANT'S AGE)**
Filed: November 19, 2003 :
For: VEHICLE WITH EXTENDABLE CARGO AND/OR PASSENGER AREA

This is a decision on the petition submitted on March 15, 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. Burg 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**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 5/26/04

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

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OFFICE OF PETITIONS

In re Application of
NAVAR, Murgesh et al.
Application No. 10/717,176
Filed: November 19, 2003
Attorney Docket No. **595292000100**

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 08, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to CARR & FERRELL LLP has been revoked by the assignee of the patent application on April 14, 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **CARR & FERRELL LLP**
2200 GENG ROAD
PALO ALTO CA 94303

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Frank S DiGiglio
Scully Scott Murphy & Presser
400 Garden City Plaza
Suite 300
New York, NY 11530

Mail Date: 04/29/2010

Applicant	: Michel Xilinas	: DECISION ON REQUEST FOR
Patent Number	: 7629354	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/717,182	: 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 **1511** 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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Hartmut Koerner	: DECISION ON REQUEST FOR
Patent Number	: 7606828	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/717,186	: 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 **433** 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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Scott B. Stahl
Jackson Walker LLP
2435 N. Central Expwy., Ste. 600
Richardson TX 75080

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OFFICE OF PETITIONS

In re Application of :
Arguelles : DECISION REFUSING
Application No. 10/717,214 : STATUS UNDER
Filed: November 19, 2003 : 37 CFR 1.47(b)
Attorney Docket No. 13430US/I435.105.101 :
For: PROCESS AND DEVICE FOR TESTING A SERIALIZER CIRCUIT ARRANGEMENT AND PROCESS AND DEVICE FOR TESTING A DESERIALIZER CIRCUIT ARRANGEMENT :

This is in response to the petition under 37 CFR 1.47(b), filed July 2, 2004 (certificate of mailing date June 30, 2004).

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on November 19, 2003 without an executed oath or declaration. Accordingly, on February 20, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on July 2, 2004 (certificate of mailing date June 30, 2004), a petition for a three month extension of time and required fee, a declaration signed by Attorney Paul P. Kempf on behalf of Infineon Technologies AG, a party with purported proprietary interest in the invention, the surcharge, filing fees, the petition fee, and the instant petition were filed. A declaration of facts by Axel Schaich, Senior Patent Counsel for Infineon Technologies AG, accompanies the petition.

Mr. Schaich states that he personally gave the complete application to Inventor Arguelles and that Mr. Arguelles orally refused to sign the declaration for patent 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;

(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 (2), and (5) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. Mr. Arguelles' citizenship is not included on the oath or declaration. The citizenship of the inventor must be included on the oath or declaration. As listing the citizenship for the inventor is a statutory requirement under 35 USC 115, it cannot be waived. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

As to item (5), Rule 47 applicant has failed to show that Infineon Technologies AG has sufficient proprietary interest in the subject matter to justify the filing of the application for the non-signing inventor (see MPEP 409.03(f)). The referenced assignment document between Infineon Technologies AG and the non-signing inventor is not in the official electronic file for this application and has not yet been entered in Office computer records. Therefore, petitioner has not established proprietary interest. The undersigned requests petitioner submit another copy of the assignment with any reconsideration petition. Please label it as an exhibit to the reconsideration petition and type/write in capital letters that it is a copy of a previously submitted assignment. This should result in the assignment document being scanned into our electronic system, rather than immediately forwarded to assignments branch without being scanned.

A courtesy copy will be mailed to the address listed on the petition

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

Inquiries may be directed to the undersigned at (703)308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: PAUL P. KEMPF
DICKE, BILLIG & CZAJA, PLLC
FIFTH STREET TOWERS, SUITE 2250
100 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402

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2435 N. Central Expwy., Ste. 600
Richardson TX 75080

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JAN 10 2005

OFFICE OF PETITIONS

In re Application of	:
Arguelles	: DECISION ACCORDING
Application No. 10/717,214	: STATUS UNDER
Filed: November 19, 2003	: 37 CFR 1.47(b)
Attorney Docket No. 13430US/I435.105.101	:
For: PROCESS AND DEVICE FOR TESTING A SERIALIZER CIRCUIT ARRANGEMENT AND PROCESS AND DEVICE FOR TESTING A DESERIALIZER CIRCUIT ARRANGEMENT	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed November 18, 2004 (certificate of mailing date November 15, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor, Javier Arguelles, 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 Axel Schaich, Senior Patent Counsel for Infineon Technologies AG, states that Inventor Arguelles received the complete application and that Mr. Arguelles orally refused to sign the declaration for patent application. In addition, petitioner has shown that Infineon Technologies AG has a proprietary interest in the above-identified application with an assignment document signed by Mr. Arguelles. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor 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 forwarded to Technology Center GAU 2133 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Javier Arguelles
Echardinger Str. 9
81673 Munich
Germany

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Arguelles :
Application No. 10/717,214 : LETTER
Filed: November 19, 2003 :
Attorney Docket No. 13430US/I435.105.101 :
For: PROCESS AND DEVICE FOR TESTING A SERIALIZER CIRCUIT ARRANGEMENT AND PROCESS AND DEVICE FOR TESTING A DESERIALIZER CIRCUIT ARRANGEMENT

Dear Mr. Arguelles:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Attorney of Record: Scott B. Stahl
Jackson Walker LLP
2435 N. Central Expwy., Ste. 600
Richardson TX 75080

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OFFICE OF PETITIONS

In re Application of	:	
Harris et al.	:	LETTER REGARDING
Application No. 10/717,217	:	PATENT TERM ADJUSTMENT
Filed: November 18, 2003	:	
Attorney Docket No.	:	
1000141-00155 / 1412E	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE," filed on December 12, 2008. Applicants request, pursuant to their duty of good faith and candor, that the initial determination of patent term adjustment under 35 USC 154(b) be reviewed for accuracy.

The request for review of patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 493 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 30, 2008,[1] the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is five hundred thirty-two (532) days. The instant request for review of patent term adjustment was timely filed.[2]

Applicants state that the PTA calculation appears to be longer than appropriate. Applicants state, specifically, that the PTA calculation should be reviewed with respect to the Notice to

[1] The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was remailed on December 12, 2008, again stating that the patent term adjustment to date was 532 days.
[2] PALM Records indicate that the issue fee was paid on December 24, 2008.

File Missing Parts mailed on March 3, 2004, and the reply thereto filed on July 12, 2004.

A review of the record reveals that Applicants should have been assessed an additional delay of 39 days. On March 3, 2004, the Notice to File Missing Parts was mailed. On July 12, 2004, a reply to the Notice to File Missing Parts was filed, with a certificate of mailing date of July 8, 2004, three (3) months and 39 days after the mailing of the Notice to File Missing Parts.

37 CFR 1.704(b) states, in pertinent part that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

37 CFR 1.703(f) states, in pertinent part that:

> The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

Therefore, Applicants should have been assessed a reduction in patent term adjustment for the period of delay beginning on June 4, 2004, (the day after the day three (3) months from the date that the Notice to File

Missing Parts was mailed on March 3, 2004, to July 12, 2004 (the date the reply was filed), or 39 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is four hundred ninety-three (493) days (717 days of Office delay, reduced by 224 (185+39) days of Applicant delay).

As this letter was submitted as an advisement to the Office of an error in Applicant's 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 matter to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PALM Calculation

PTA Calculations for Application: 10/717217			
Application Filing Date:	11/18/2003	PTO Delay (PTO):	717
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	185
Post-Issue Petitions:	0	Total PTA (days):	493
PTO Delay Adjustment:	-39		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		39	
90	12/12/2008	MAIL NOTICE OF ALLOWANCE			
89	12/11/2008	ISSUE REVISION COMPLETED			
88	12/11/2008	DOCUMENT VERIFICATION			
87	12/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
85	12/08/2008	NOTICE OF ALLOWABILITY			
84	12/04/2008	DATE FORWARDED TO EXAMINER			
83	10/06/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
82	12/04/2008	DATE FORWARDED TO EXAMINER			
81	10/06/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
80	12/04/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
79	10/30/2008	MAIL EXAMINER'S AMENDMENT			
78	10/30/2008	MAIL CORRECTED NOTICE OF ALLOWANCE (RESPONSE PERIOD NOT RESTARTED)			
77	10/28/2008	EXAMINER'S AMENDMENT COMMUNICATION			
76	10/28/2008	ISSUE REVISION COMPLETED			
75	10/28/2008	DOCUMENT VERIFICATION			
74	10/28/2008	CORRECTED NOTICE OF ALLOWANCE			
73	10/06/2008	EXPORT TO INITIAL DATA CAPTURE			
72	10/02/2008	MAIL EXAMINER'S AMENDMENT			
71	10/02/2008	MAIL NOTICE OF ALLOWANCE			
70	09/29/2008	ISSUE REVISION COMPLETED			
69	09/29/2008	DOCUMENT VERIFICATION			
68	09/26/2008	NOTICE OF ALLOWANCE DATA VERIFICATION			

		COMPLETED			
67	09/26/2008	EXAMINER'S AMENDMENT COMMUNICATION			
66	09/26/2008	NOTICE OF ALLOWABILITY			
65	09/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	09/02/2008	REFERENCE CAPTURE ON IDS			
63	09/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	09/15/2008	DATE FORWARDED TO EXAMINER			
61	09/02/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
60	09/15/2008	DATE FORWARDED TO EXAMINER			
59	09/02/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		3	51
58	09/15/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
57	09/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	09/02/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	08/08/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
54	08/08/2008	CORRESPONDENCE ADDRESS CHANGE			
53	06/12/2008	FINISHED INITIAL DATA CAPTURE			
52	06/02/2008	EXPORT TO INITIAL DATA CAPTURE			
51	05/30/2008	MAIL NOTICE OF ALLOWANCE			
50	05/15/2008	ISSUE REVISION COMPLETED			
49	05/15/2008	DOCUMENT VERIFICATION			
48	05/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
47	05/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
46	05/12/2008	NOTICE OF ALLOWABILITY			
45	05/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	05/08/2008	DATE FORWARDED TO EXAMINER			
42	05/06/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	05/08/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

40	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	05/06/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	04/28/2008	EXPORT TO INITIAL DATA CAPTURE			
36	04/25/2008	MAIL NOTICE OF ALLOWANCE			
35	04/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	04/09/2008	ISSUE REVISION COMPLETED			
33	04/09/2008	DOCUMENT VERIFICATION			
32	03/31/2008	NOTICE OF ALLOWABILITY			
31	03/31/2008	DATE FORWARDED TO EXAMINER			
30	03/21/2008	RESPONSE AFTER NON-FINAL ACTION		91	27
29	03/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	09/21/2007	MAIL NON-FINAL REJECTION			
26	09/17/2007	NON-FINAL REJECTION			
25	07/07/2007	DATE FORWARDED TO EXAMINER			
24	07/05/2007	RESPONSE TO ELECTION / RESTRICTION FILED		91	22
23	07/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	01/05/2007	MAIL RESTRICTION REQUIREMENT	717		-1
21	01/03/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
20	07/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	06/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	06/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	07/26/2004	REFERENCE CAPTURE ON IDS			
16	08/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15.7	07/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/24/2004	PRELIMINARY AMENDMENT			
13	08/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	08/07/2004	APPLICATION RETURN FROM OIPE			
11	08/07/2004	APPLICATION RETURN TO OIPE			
10	08/06/2004	APPLICATION DISPATCHED FROM OIPE			

9	08/09/2004	APPLICATION IS NOW COMPLETE			
8	07/12/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	07/12/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/18/2004	CLEARED BY L&R (LARS)			
4	02/03/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	02/03/2004	CASE CLASSIFIED BY OIPE			
2	12/25/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/18/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 7,504,376	:	
Issued: March 17, 2009	:	
Application No. 10/717,217	:	ON APPLICATION FOR
Filed: November 18, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
3800096.00155 / 1412E	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(D)," filed on May 15, 2009. Patentee requests that the determination of patent term adjustment be corrected from four hundred ninety-three (493) days to one thousand eighteen (1018) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 493 days.

BACKGROUND

On March 17, 2009, the application matured into U.S. Patent No. 7,504,376, with a revised patent term adjustment of 493 days. The Office determined that the 534 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 717 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), accorded prior to the filing of the request for continued examination. As such, no additional days of

patent term adjustment were entered at issuance under the three-year pendency provision.

On May 15, 2009, patentee timely submitted this request for reconsideration of the patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,018 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same calendar day."

Patentee further asserts a 48 day overlapping period under § 154(b)(1)(A) & (B). Accordingly, patentee maintains that the total non-overlapping PTO delay under § 154(b)(1)(A) & (B) is 1203 (717 + 534 - 48 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 185 days, patentee asserts entitlement to 1018 (1203 - 185) days of patent term adjustment.

OPINION

Patentee's 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) 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).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), November 18, 2003, and ending on the day before the date of filing of a request for continued examination (RCE), May 5, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 717 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 534 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 534 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 717 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 717 days and the 534 days is neither permitted nor warranted. 717 days is the actual number of days issuance of the patent was delayed. Considering the applicant delay of 185 days, the patent term adjustment at issuance is 493 (717 - 185) days.

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.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 493 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7504376	:	DECISION ON REQUEST
Harris et al.	:	FOR
Issue Date: 03/17/2009	:	RECONSIDERATION OF
Application No. 10/717217	:	PATENT TERM ADJUSTMENT
Filed: 11/18/2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
3800096.00155 / 1412E	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eighteen (1018) days. For the reasons stated below, the petition is treated as a petition requesting that the requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-nine (979) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-nine (979) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 19, 2006, and ends on May 5, 2008, the day before the RCE was filed, and is 534 days. See 35 U.S.C. 154(b)(1)(B)(i). Considering the overlapping period of 48 days, beginning on November 19, 2006 and ending on January 5, 2007,

the date the first Office action was mailed, the "B" delay is 486 (534 - 48) days.

Petitioners have failed, however, to include the 39-day period of reduction for applicant delay as set forth in the letter regarding patent term adjustment mailed on February 3, 2009. Accordingly, the patent term adjustment is 979 (717 days Office delay + 486 days three years delay - 224 (185 + 39) days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred seventy-nine (979)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,376 B2

DATED : **March 17, 2009** **DRAFT**

INVENTOR(S) : Harris 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 493 days.

Delete the phrase "by 493 days" and insert – by 979 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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James H. Morris
Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of :
Ferrant : DECISION NOTING JOINDER
Application No. 10/717,223 : OF INVENTOR AND PETITION
Filed: November 19, 2003 : UNDER 37 CFR 1.47(b) MOOT
Atty. Dkt. No.: S1022.80580US01 :

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed July 28, 2004.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
KOZLOWSKI, et al. :
Application No. 10/717,234 : DECISION ON PETITION
Filed: November 18, 2003 : TO WITHDRAW
Attorney Docket No. **J001-P03141US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "we no longer represent the owner of this application," does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JUNEAU INFORMATION SERVICE TECHNOLOGY**
P.O. BOX 34686
JUNEAU, AK 99803

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Venture Pacific Law, PC
5201 Great America Parkway, Suite 270
Santa Clara CA 95054

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Huiquan Liu et al.	:	
Application No. 10/717,236	:	DECISION ON PETITION
Filed: November 19, 2003	:	
Attorney Docket No. BYD-US2003-004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 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 Notice of Non-Compliant Amendment mailed September 8, 2006, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 9, 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 October 8, 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 **Emil Chang** was counsel of record at the time of abandonment, should explain why this application became abandoned while it was under their control and what efforts **Emil Chang** made to further reply of itself and with whom this matter was discussed outside of **Emil Chang**. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at **Emil Chang**, 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 **Law Offices of Emil Chang** and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact JoAnne Burke at (571) 272-4584 regarding the filing of the renewed petition under 37 CFR 1.137(b).

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Venture Pacific Law, PC
5201 Great America Parkway, Suite 270
Santa Clara CA 95054

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FEB 02 2010

OFFICE OF PETITIONS

In re Application of :
Huiquan Kiu et al. :
Application No. 10/717,236 : DECISION ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. BYD-US2003-004 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 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 Notice of Non-Compliant Amendment, mailed September 8, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned 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 an amendment (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 1754 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
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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DONALD F. HAAS
SHELL OIL COMPANY
LEGAL – INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Raney et al.	:	
Application No. 10/717,239	:	ON PETITION
Filed: November 19, 2003	:	
Attorney Docket No. TH1843 03 (US)	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition 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.

Along with the instant petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on November 19, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not initially included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim

for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

Petitioner also amended the first line of the specification to include a reference to the prior-filed applications in the Preliminary Amendment submitted at the time of filing the instant application.

In view of the above, the $130.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account as authorized.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Initial Patent Examination for pre-exam processing. Afterwards, this matter will be referred to Technology Center AU 1746 for examination and consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) and the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/1/07

Paper No.: ____

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/717243 Patent No.: 7153932B2

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: _____

Christina Chan — SPE

1644 — Art Unit

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PATTERSON & SHERIDAN, LLP
INTERCAT EQUIPMENT
595 SHREWSBURY AVENUE, SUITE 100
SHREWSBURY, NY 07702

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FEB 21 2008

In re Application of :
Martin Evans :
Application No. 10/717,250 : ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. CAT/008 :

This is a decision on the petition filed November 1, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed June 28, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 29, 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 Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

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MAY 29 2007

OFFICE OF PETITIONS

In re Patent No. 6,908,623 :
Issue Date: June 21, 2005 :
Application No. 10/717,251 : NOTICE
Filed: November 19, 2003 :
Attorney Docket No. PSU 1813 CON (2)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

In re Patent No. 6,908,623
Issue Date: June 21, 2005
Application No. 10/717,251
Filed: November 19, 2003
Attorney Docket No. PSU1813CON(2)

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 08/810,275, filed March 3, 1997.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Application no. 10/171,251 which was filed after November 29, 2000, matured into Patent No. 6,908,623 on June 21, 2005. The claim for the benefit of priority to a prior-filed nonprovisional application was 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 does in not compliance with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has not been included in a certificate of correction and (2), the certificate of

correction fee has not been submitted. Thus, the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application does not satisfy the conditions of 37 CFR 1.78(a)(3).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a certificate of correction and appropriate fee will need to be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
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Post Office Box 1450
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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

JUN 21 2007
PATENT & TRADEMARK OFFICE

6/25/07

DRE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Daniel R. Deaver, David A. Edwards, and Robert S. Langer

Reissue of: U.S. Patent No. 6,908,623 Express Mail No: EM 104577233 US

Filed: June 21, 2007 Date of Deposit: June 21, 2007

For: COMPOSITIONS AND METHODS FOR ENHANCING RECEPTOR-MEDIATED CELLULAR INTERNALIZATION

RECEIVED
JUN 29 2007
OFFICE OF PETITIONS

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.78(a)(3) TO ACCEPT AN UNINTENTIONALLY DELAYED PRIORITY CLAIM

Sir:

Applicant hereby petitions the Commissioner to accept the unintentionally delayed priority claim described herein. An amendment to the specification to include the complete priority claim and an Application Data Sheet, which includes the complete priority claim, are included with this petition.

The application as originally filed provided an incomplete priority claim, inadvertently omitting that the original application was also a continuation-in-part of U.S. Serial No.08/810,275 filed on March 3, 1997 (now U.S. Patent No. 5,985,320, issued

06/26/2007 HGARZI1 00000075 503129 10717251
01 FC:1454 130.00 DA

November 16, 1999), which claims priority to U.S. provisional application Serial No. 60/012,721 filed March 4, 1996.

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 Commissioner is authorized to charge the fee under 37 C.F.R. § 1.17(t) of $1,370.00 to Deposit Account No. 50-3129.

It is believed that no additional fee is required with this submission. However, should an additional fee be required, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 50-3129.

Respectfully submitted,

Rivka D. Monheit
Reg. No. 48,731

Date: June 21, 2007

PABST PATENT GROUP LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, Georgia 30361
(404) 879-2152 (Telephone)
(404) 879-2160 (Fax)

US006908623B2

(12) **United States Patent**
Deaver et al.

(10) **Patent No.: US 6,908,623 B2**
(45) **Date of Patent: *Jun. 21, 2005**

(54) **COMPOSITIONS AND METHODS FOR ENHANCING RECEPTOR-MEDIATED CELLULAR INTERNALIZATION**

(75) Inventors: **Daniel R. Deaver**, Franklin, MA (US); **David A. Edwards**, Boston, MA (US)

(73) Assignee: **The Penn State Research Foundation**, University Park, PA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

This patent is subject to a terminal disclaimer.

(21) Appl. No.: **10/717,251**

(22) Filed: **Nov. 19, 2003**

(65) **Prior Publication Data**

US 2004/0106542 A1 Jun. 3, 2004

Related U.S. Application Data

(63) Continuation of application No. 10/120,940, filed on Apr. 10, 2002, now Pat. No. 6,652,873, which is a continuation of application No. 09/412,821, filed on Oct. 5, 1999, now Pat. No. 6,387,390.

(60) Provisional application No. 60/103,117, filed on Oct. 5, 1998.

(51) **Int. Cl.**[7] **A61F 2/02**; A61F 13/02; A61K 9/48; A61K 9/20; A61K 9/14

(52) **U.S. Cl.** **424/423**; 424/434; 424/435; 424/451; 424/464; 424/489

(58) **Field of Search** 424/423, 434, 424/435, 451, 464, 489

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,013,792	A	3/1977	Eichman et al.	
4,383,993	A	5/1983	Hussain et al.	
4,810,503	A	3/1989	Carson et al.	
5,258,499	A	11/1993	Knoigsberg et al.	
5,766,620	A	6/1998	Heiber et al.	
5,985,320	A	11/1999	Edwards et al.	424/450
6,652,873	B2	11/2003	Deaver et al.	424/423

FOREIGN PATENT DOCUMENTS

GB	1090492 A	11/1967
WO	WO 92/11037 A2	7/1992
WO	WO 94/00155 A1	1/1994
WO	WO 97/32572 A2	9/1997

OTHER PUBLICATIONS

Barzu, et al., "Endothelial binding sites for heparin. Specificity and role in heparin neutralization," *Biochem. J.* 238(3):847–54 (1996).

Deaver, et al., "Effects of domparidone and thyrotropin–releasing hormone on secretion of luteinizing hormone and prolactin during the luteal phase and following induction of luteal regression in sheep," *Domes. Amin. Endocrinal.* 4(2):95–102 (1987).

Edwards, et al., "Spontaneous vesicle formation at lipid bilayer membranes," *Biophys. J.* 71(3):1208–14 (1996).

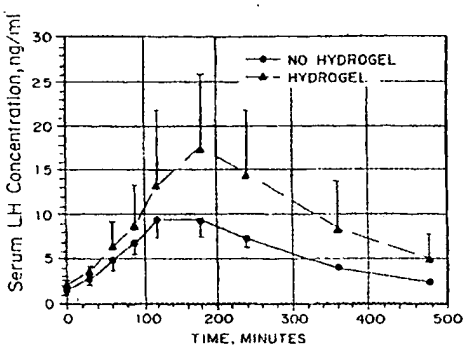
(Continued)

Primary Examiner—Carlos A. Azpuru
(74) *Attorney, Agent, or Firm*—Pabst Patent Group LLP

(57) **ABSTRACT**

Compositions and methods for improving cellular internalization of one or more compounds are disclosed. The compositions include a compound to be delivered and a biocompatible viscous material, such as a hydrogel, lipogel, or highly viscous sol. The composition also include, or are administered in conjunction with, an enhancer in an amount effective to maximize expression of or binding to receptors and enhance RME of the compound into the cells. This leads to high transport rates of compounds to be delivered across cell membranes, facilitating more efficient delivery of drugs and diagnostic agents. Compositions are applied topically orally, nasally, vaginally, rectally, and ocularly. The enhancer is administered with the composition or separately, either systemically or preferably locally. The compound to be delivered can also be the enhancer.

16 Claims, 5 Drawing Sheets



In the specification

On page 1, please amend the paragraph at lines 5-6 as follows:

~~Priority is claimed~~ This application is a continuation of U.S. Serial No. 10/120,940, filed April 10, 2002, which is a continuation of U.S. Serial No. 09/412,821, filed October 5, 1999 (now U.S. Patent No. 6,387,390), which claims priority to U.S. provisional application Serial No. 60/103,117, filed October 5, 1998.

US 20040106542A1

(19) United States

(12) Patent Application Publication (10) Pub. No.: US 2004/0106542 A1

Deaver et al. (43) Pub. Date: Jun. 3, 2004

(54) COMPOSITIONS AND METHODS FOR ENHANCING RECEPTOR-MEDIATED CELLULAR INTERNALIZATION

(75) Inventors: Daniel R. Deaver, Franklin, MA (US); David A. Edwards, Boston, MA (US)

Correspondence Address:
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ATLANTA, GA 30309-3400 (US)

(73) Assignee: The Penn State Research Foundation

(21) Appl. No.: 10/717,251

(22) Filed: Nov. 19, 2003

Related U.S. Application Data

(63) Continuation of application No. 10/120,940, filed on Apr. 10, 2002, now Pat. No. 6,652,873, which is a continuation of application No. 09/412,821, filed on Oct. 5, 1999, now Pat. No. 6,387,390.

(60) Provisional application No. 60/103,117, filed on Oct. 5, 1998.

Publication Classification

(51) Int. Cl.[7] A61K 38/23; A61K 48/00; A61K 31/573; A61K 31/715; A61K 31/56

(52) U.S. Cl. 514/2; 514/44; 514/54; 514/179

(57) ABSTRACT

Compositions and methods for improving cellular internalization of one or more compounds are disclosed. The compositions include a compound to be delivered and a biocompatible viscous material, such as a hydrogel, lipogel, or highly viscous sol. The composition also include, or are administered in conjunction with, an enhancer in an amount effective to maximize expression of or binding to receptors and enhance RME of the compound into the cells. This leads to high transport rates of compounds to be delivered across cell membranes, facilitating more efficient delivery of drugs and diagnostic agents. Compositions are applied topically orally, nasally, vaginally, rectally, and ocularly. The enhancer is administered with the composition or separately, either systemically or preferably locally. The compound to be delivered can also be the enhancer.

Continuity/Reexam Information for 10/717251

Parent Data
10717251, filed 11/19/2003
is a continuation of 10120940, filed 04/10/2002
Which is a continuation of 09412821, filed 10/05/1999
Which Claims Priority from Provisional Application 60103117, filed 10/05/1998

Child Data
11154067, filed on 06/14/2005 is a continuation of 10717251, filed on 11/19/2003
11821514, filed on 06/21/2007 is a reissue of 10717251, filed on 11/19/2003

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PCT / / Search **or PG PUBS #** Search
Attorney Docket # Search
Bar Code # Search

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Application Number Information

Application Number: **10/717251**	Examiner Number: **66935 / AZPURU, CARLOS**	
Assignments		
Filing or 371(c) Date: **11/19/2003** eDan	Group Art Unit: **1615**	**IFW Madras**
Effective Date: **11/19/2003**	Class/Subclass: **424/453.000**	
Application Received: **11/20/2003**	Lost Case: **NO**	
Pat. Num./Pub. Num: **6908623/20040106542**	Interference Number:	
Issue Date: **06/21/2005**	Unmatched Petition: **NO**	
Date of Abandonment: **00/00/0000**	L&R Code: Secrecy Code:**1**	
Attorney Docket Number: **PSU 1813 CON (2)**	Third Level Review: **NO**	Secrecy Order: **NO**
Status: **150 /PATENTED CASE**		Status Date: **06/01/2005**
Confirmation Number: **7737**	Oral Hearing: **NO**	

Title of Invention: **COMPOSITIONS AND METHODS FOR ENHANCING RECEPTOR-MEDIATED CELLULAR INTERNALIZATION**

Bar Code	PALM Location	Location Date	Charge to Loc	Charge to Name	Employee Name	Location

Appln Info Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search

Attorney Docket # [ ] Search

Bar Code # [ ] Search

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http://EXPOWEB1:8001/cgi-bin/expo/GenInfo/snquery.pl?APPL_ID=10717251

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210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of

Kim, et al.

Application No. 10/717,265

Filed: November 19, 2003

Attorney Docket No. 5000-1-481

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed May 29, 2007.

The petition is **granted**.

This application was held abandoned on December 22, 2006, after no reply was received to the non-final Office action mailed September 21, 2006. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on December 22, 2006. A Notice of Abandonment was mailed on May 1, 2007. The instant petition was filed on May 29, 2007. Petitioner maintains that the notice of September 21, 2006, was never received due to a failure of the USPTO to associate the subject application with customer number 33942.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Although petitioner has not provided a copy of the relevant docket records, a review of the application file revealed the application was not associated with customer number 33942, notwithstanding the request that was made in the application transmittal sheet to do so. As a result, correspondence address for the application was not changed when the correspondence address associated with customer number 33942 changed. The non-final Office action was mailed to an incorrect address. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2600, GAU 2613 for further processing that may include remailing the non-final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

02/27/04

Philip R. Poh
Fish & Neave
1251 Avenue of the Americas
New York, NY 10020-1105

Dear Applicant:

The Box PGPub replacement drawings for application number 10/717271 received on 01/20/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : August 9, 2008

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction on Patent No.: 7,064,110

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:

SPE

1623

SPE: Art Unit

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Need et al. :
Application No. 10/717,307 : DECISION ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. MS :
305610.01/6000.314US0

This is a decision on the petition filed July 27, 2007, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed June 6, 2007 be withdrawn. The $400.00 petition fee has been received.

The petition is granted.

Petitioners assert that that the terminal disclaimer filed on June 6, 2007 was filed in error.

Pursuant to MPEP 1490 (VII)(A), if timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues.

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "un-happy circumstance" in In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. Since the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer filed on June 6, 2007 is withdrawn. It should however be noted, that the terminal disclaimer filed June 6, 2007 is being withdrawn in favor of the terminal disclaimer filed on July 27, 2007. USPTO records for the above-identified application have been changed consistent with this decision.

This application is being referred to AU 2194 for further processing.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Carlos Nieves, Esq.
J. M. Huber Corporation
333 Thornall Street
Edison NJ 08837-2220

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Sung-Tsuen Liu :
Application No. 10/717,310 :
Filed: November 19, 2003 : DECISION ON PETITION
Attorney Docket No. 02-215 : UNDER 37 C.F.R. § 1.137(B)
Title: STABILIZED VATERITE :

This is a decision on the petition filed April 12, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 28, 2006, 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 October 29, 2006. A notice of abandonment was mailed on February 13, 2007.

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1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has submitted the petition fee, a response to the Office action, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the Office action that was submitted concurrently with the present petition can be processed.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES 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.

Carlos Nieves, Esq.
J. M. Huber Corporation
333 Thornall Street
Edison NJ 08837-2220

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MAY 04 2009

OFFICE OF PETITIONS

In re Application of :
Sung-Tsuen Liu :
Application No. 10/717,310 :
Filed: November 19, 2003 : DECISION ON PETITION
Attorney Docket No. 02-215 : UNDER 37 C.F.R. § 1.137(B)
Title: STABILIZED VATERITE :

This is a decision on the petition filed November 12, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

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 November 9, 2007, which set a shortened statutory period for reply of three months. A Request for Continued Examination (RCE) was received on December 3, 2007, and a Notice of Improper Request for Continued Examination (RCE) was mailed on January 9, 2008, indicating that the RCE had not been accompanied by a submission, as required by 37 C.F.R. § 1.114. The notice did not extend the period for response that was set by the final Office action. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on February 10, 2008. A notice of abandonment was mailed on July 14, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
> (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee, an amendment, and a statement that is being construed as the proper statement of unintentional delay.

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.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on November 12, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this

---

1 See Rule 1.137(d).

decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: William S. Parks
Wyatt, Tarrant & Combs, LLP
1715 Aaron Brenner Drive
Memphis, TN 38120-4367

---

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080922A

DATE : September 19, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7308286 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

/CHARLES N APPIAH/
Supervisory Patent Examiner.Art Unit 2617

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Commissioner for Patents
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RICHARD S. MILNER
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Han et al.	:	
Application No. 10/717,334	:	ON PETITION
Filed: November 18, 2003	:	
Attorney Docket No. 71511/RSM	:	

This is a decision on the petition, filed December 18, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed March 13, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 27, 2006.

Petitioner asserts that the Office action dated March 13, 2006 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;

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 docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A petition fee is not required and none has been charged.

This matter is being referred to the Technology Center technical support staff of Art Unit 1725 for re-mailing the Office action of March 13, 2006. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-05

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6891188

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.

Is this the correct drawings . Fig 1 Thanks

EVA JAMES

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:

_____

_____

_____

_____

_____

SPE

2818
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE :December 1, 2005

TO SPE OF : ART UNIT: 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6,927,413

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:

_____

_____

_____

_____

_____

_____ 2818

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Choate, Hall & Stewart
Exchange Place
53 State Street
Boston MA 02109

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JAN 12 2005

OFFICE OF PETITIONS

In re Application of :
Henry Lee :
Application No.: 10/717,409 : ON PETITION
Filed: November 18, 2003 :
Attorney Docket No:**0492611-0526** :

This is a decision on the petition under 37 CFR 1.28(c), filed December 3, 2004.

The petition is **GRANTED.**

The record reflects that the filing fee, claims fees, surcharge, and extension of time fees for the above-cited application were paid at the small entity rate. Petitioner later discovered that the inventive entity did not qualify as a small entity and filed the instant petition, accordingly.

Petitioner has remitted the deficient amount of $1,902.00.

Pursuant to 37 CFR 1.28(d), the payment of the deficient amount will be treated under 37 CFR 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

The application file will be directed to Technology Center 3700 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/10/2010

Applicant	: Arun Rao	: DECISION ON REQUEST FOR
Patent Number	: 7657336	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/717,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1755** 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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MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

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JAN 17 2007

OFFICE OF PETITIONS

In re Patent No. 7,125,566	:	
Issued: October 24, 2006	:	
Application No. 10/717,429	:	NOTICE
Filed: November 19, 2003	:	
Patentee: Jeffrey B. Etter	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/26/2010

Applicant	: Stephen A. Boppart	: DECISION ON REQUEST FOR
Patent Number	: 7623908	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/717,437	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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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Paper No.

Christopher J. Palermo
HICKMAN PALERMO TRUONG &
BECKER LLP
1600 Willow Street
San Jose, CA 95125

MAIL

JUL 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Scott Banister
Application No. 10/717,441
Filed: November 18, 2003
For: ELECTRONIC MESSAGE DELIVERY WITH ESTIMATION APPROACHES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 20, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 20, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the

Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: NIXON PEABODY LLP
401 9th Street, NW, Suite 900
Washington, DC 2004-2128

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NIXON PEABODY LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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JUN 06 2006

OFFICE OF PETITIONS

In re Application of :

Scott Banister et al :
Application No. 10/717,441 :
Filed: November 18, 2003 :
Attorney Docket No. 002616-34 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 17, 2006.

The request is **APPROVED**.

A review of the file record indicates that Marc S. Kaufman: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Marc S. Kaufman, along all of the attorneys associated with Customer No. **22204**, has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.36(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor at the **first** copied address below until otherwise properly notified by the applicant/assignee.

Applicant is reminded that there is no attorney of record at this time.

The application is being referred to Technology Center AU 2154 to await a reply to the Non-final Office action mailed April 4, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:
SCOTT BANISTER
607 FARALOON AVENUE
PACIFICA, CA 94044

cc:
EVAN R. SMITH, SENIOR COUNSEL
BLANK ROME LLP
WATERGATE, ELEVENTH FLOOR
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Banister, Peterson, and Moore	:	DECISION ACCORDING STATUS
Application Number: 10/717441	:	UNDER 37 CFR 1.47(a)
Filing Date: 11/18/2003	:	
For: METHOD OF ELECTRONIC	:	
MESSAGE DELIVERY WITH PENALTIES	:	
FOR UNSOLICITED MESSAGES	:	

This is in response to the petition under 37 CFR 1.47(a), filed on 16 August, 2004.

The Office apologizes for the delay in responding to the present petition.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established, via the declaration of registered patent practitioner Christopher J. Palermo, that a copy of the application papers sent to the then-current last known address to of the non-signing inventor was returned as unclaimed. Efforts were also made to contact the non-signing inventor by telephone.

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 address in the petition is different than the correspondence address. A copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is being referred to the Office of Patent Publications for processing into a patent.

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

Cc:

HICKMAN PALERMO TRUONG & BECKER
1600 WILLOW ST
SAN JOSE CA 95125-5106

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov
DIW Sep-07

Scott Banister
607 Farallon Avenue
Pacifica CA 94044

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SEP 0 5 2007

OFFICE OF PETITIONS

In re Application of
Banister et al.
Application No. 10/717,441
Filed: 18 November, 2003
For: METHOD OF ELECTRONIC MESSAGE DELIVERY WITH PENALTIES FOR UNSOLICITED MESSAGES

Dear Mr. Banister:

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 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, NW
WASHINGTON DC 20037

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chris Bradford et al. :
Application No. 10/717,443 :
Filed: November 21, 2003 :
Attorney Docket No. 051344-5017 :

This is a decision on the petition, filed March 31, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office Action mailed April 18, 2005. Petitioner was notified by Advisory Action mailed October 13, 2005 that the response filed September 21, 2005 did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed March 2, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a

question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of April 18, 2005, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on April 18, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

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 matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/717,443	**Applicant(s)** BRADFORD ET AL.	
	Examiner Anthony J. Green	**Art Unit** 1755	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *6* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See attachment*. (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: *2,3,5,6,8,9,22 and 23*.
   Claim(s) objected to: *10-12,14-17 and 28-32*.
   Claim(s) rejected: *7,10-17,24-27,29,30,32,33*.
   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: _____.

Anthony J. Green
Primary Examiner
Art Unit: 1755

ATTACHMENT TO ADVISORY ACTION

Continuation of 3. Note:

In claim 10 as amended, the phrase "wherein the hectorite clay comprises about 0.1 to 10 wt. % hectorite clay" makes no sense and is therefor confusing.

In claim 13 as amended, the phrase "adding the treated beneficiated or unbeneficiated natural hectorite mixture" now lacks proper antecedent basis.

In claim 14 as amended, the phrase "the metal flakes" now lacks proper antecedent basis.

In claim 23 as amended, the change from 1% to 0.1% is a new issue.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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NOV 0 2 2009

OFFICE OF PETITIONS

HDLS Patent & Trademark Services
P.O. BOX 220746
CHANTILLY VA 20153-0746

In re Application of	
Wang et al.	
Application No. 10/717,447	
Patent No.: 7,019,979	DECISION ON PETITION
Filed: November 21, 2003	PURSUANT TO
Issued: March 28, 2006	37 C.F.R. § 1.28(c)
Attorney Docket No.: OP-092000289	
Title: HEAT DISSIPATING DEVICE HAVING IMPROVED FASTENING STRUCTURE	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 11, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly. The deficiency payment has been deducted from Petitioner's Deposit Account.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/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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SUITE 400
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036-5339

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of :
Tokihiro Nishihara et al :
Application No. 10/717,487 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 025720-00017 :

This is a decision on the petition, filed August 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2817 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
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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Washington, DC 20036-5339

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APR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Nishihara et al.	:	
Application No 10/717487	:	
Filing or 371(c) Date: 11/21/2003	:	DECISION
Attorney Docket Number: 025720-00017	:	ON PETITION

This is a decision in response to the Request to Withdraw the Holding of Abandonment, filed January 19, 2007. The petition is properly treated under 37 C.F.R. 1.181.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due (Notice), mailed September 15, 2006. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on December 16, 2005. A Notice of Abandonment was mailed January 8, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2817 for re-mailing of the Notice of Allowance and Issue Fee Due and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/05/2007

TO SPE OF : ART UNIT **1700 (1772)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,074,474**
Attn: Alex Thomas

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter changes in claims 5 & 14 as requested in C of C?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

RENA DYE
SUPERVISORY PATENT EXAMINER

SPE Art 1724

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BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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JUN 07 2005

OFFICE OF PETITIONS

Applicant: Matthews et al.
Appl. No.: 10/717,519
Filing Date: November 21, 2003
Title: IMMUNOMODULATORY COMPOUNDS
Attorney Docket No.: 24725US0PCT
Pub. No.: US 2004/0116461 A1
Pub. Date: June 17, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on July 22, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FEB 0 1 2006

Wendi Leigh Weinstein
PO Box 1404
Alexandria VA 22313-1404

In re Application of: GANDEMO	:
Appl. No.: 10/717,541	: DECISION ON PETITION
Filed: November 21, 2003	:
For: ABSORBENT ARTICLE WITH IMPROVED CLOSING MECHANISM	:

This is a decision on the timely petition filed on October 11, 2005 by which petitioner requests withdrawal of the finality of the Office action dated August 11, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner urges reconsideration of the final rejection on the basis of improper scanning of the originally filed application. Petitioner outlines a case indicating the USPTO has scanned/entitled part of the English language translation as the complete application rather than the application as originally filed. Additionally, Petitioner has included an evidentiary photocopy of the postcard receipt of the November 21, 2003 application submission in further support of the contention that the application was originally filed with claims 1 –6, rather than claims 1 –4 as examined.

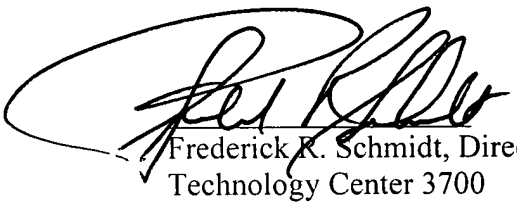
Review of the instant file indicates these statements appear to be true. The postcard receipt of the November 21, 2003 indicates the application as originally filed contained claims 1-6, and is considered prima facia evidence of a total of six claims present upon filing. In addition, the transmittal letter contained with the original filing indicates a total of six claims filed. PTO form 875 (fee worksheet) indicates the office acknowledged a total of six claims were present at filing. Further on March 30, 2004 petitioner filed a request for corrected filing receipt requesting the total claims be changed from "4" to "6" also supporting petitioner's contention that six claims were originally filed.

As only claims 1-4 were examined in the first office action, and claims 1-6 finally rejected in the August 11, 2005 office action, it appears as though claims 5 and 6 were treated on the merits for the first time in the August 11, 2005 final rejection. These claims were originally filed and not

added via amendment as advanced by the examiner. As a matter of form, the finality of the rejection mailed August 10, 2005 is withdrawn. The fact that the claims were rejected under the identical art and grounds of record is not probative.

The application is being forwarded to the Examiner of record for re-issuance of the last office action with the finality removed.

PETITION GRANTED



Frederick R. Schmidt, Director
Technology Center 3700

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ALEXANDRIA, VA 22314

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Kaname Miyazaki, et al. :
Application No. 10/717,568 : DECISION GRANTING PETITION
Filed: November 21, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 245780US3RD :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 9, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,571	11/21/2003	Koji Shigemura	1670.1020	9396

49455 7590 06/02/2008

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER	
LIN, JAMES	

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
06/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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6-2-08

glm

In re application of	:	
Koji Shigemura	:	DECISION
Serial No. 10/717,571	:	ON
Filed: November 21, 2003	:	PETITION
For: DEPOSITION MASK FRAME ASSEMBLY, METHOD OF FABRICATING THE SAME, AND METHOD OF FABRICATING ORGANIC ELECTROLUMINESCENT DEVICE USING THE DEPOSITION MASK FRAME ASSEMBLY	:	

This is a decision on the PETITION UNDER 37 CFR 1.181(a) FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION AND RESTARTING OF PERIOD FOR RESPONSE filed May 12, 2008.

On August 27, 2007, an appeal brief was filed, and was eventually followed on December 19, 2007 by an examiner's answer, which included a new grounds of rejection. As required, a reply brief was filed February 14, 2008 responding to the new grounds of rejection. The examiner thereupon reopened prosecution and issued a final rejection on April 10, 2008.

On May 12, 2008, the instant petition was timely filed and is before the Director of Technology Center 1700 for consideration. The petition requests withdrawal of the finality of the April 10, 2008 action and restarting of the period for response thereto.

As explained below, the request to withdraw finality is **GRANTED**; the request to restart the period for response is **DENIED**.

DECISION

Applicant first asserts that the certified translation included with the reply brief is not 'new evidence' and thus the examiner's reopening of prosecution is improper. Treatment of a reply brief is explained in MPEP 1208 (II), reproduced in part below:

> In addition, the examiner may:
> (A) Withdraw the final rejection and reopen prosecution to respond to the reply brief (see MPEP § 1207.04); or
> (B) Furnish a supplemental examiner's answer responding to any new issue raised in the reply brief (see MPEP § 1207.05).

> Any supplemental examiner's answer responding to a new issue raised in a reply brief must be approved by the Technology Center (TC) Director or designee. 37 CFR 41.43(a)(2) prohibits a supplemental examiner's answer responding to a reply brief from including a new ground of rejection. After the filing of a reply brief, any new ground of rejection responding to a reply brief must be by way of reopening of prosecution. See MPEP § 1207.04. The examiner's decision to withdraw the final rejection and reopen prosecution to enter a new ground of rejection requires approval from the supervisory patent examiner, which approval must be indicated in the Office action setting forth the new ground of rejection. See MPEP § 1207.04.

Thus the examiner may, with appropriate supervisory approval, reopen prosecution whether the certified translation is considered 'new evidence' or not. Since the action reflects that supervisory approval to reopen was given, the examiner's reopening of prosecution was not, in and of itself, improper.

Reopening of prosecution after a brief or reply brief is filed is explained in MPEP 1207.04, reproduced in part below:

> The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

Thus an Office action following a brief or reply brief may be made final only if the new grounds of rejection was necessitated by amendment or based on information presented in certain information disclosure statements. Neither of these conditions is met here, since the new grounds of rejection was in no way necessitated by amendment nor based on information presented in an IDS. Contrary to the examiner's action, the rejection does contain a 'new grounds of rejection' since the rejection based on Tsuchiya et al. was not previously contained in an action on the merits under 37 CFR 1.104. Consequently, while the examiner may reopen prosecution with a new action, such action must be non-final.

Since the new ground of rejection was not necessitated by applicant's amendment, applicant's request to withdraw the finality of the April 10, 2008 action is **GRANTED**.

Applicants also request that the period for responding to the outstanding office action be restarted. Section (f) of 37 CFR 1.181 states:

> (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.

Even upon withdrawal of the finality of the April 10, 2008 office action, the grounds of rejection set forth in the office action would still apply and applicants would still have an obligation to respond in a timely manner. Because the rule clearly states that the filing of a petition will not stay any period for reply that may be running against the application, the request for restarting the period for response is **DENIED**. The period for response set forth in the April 10, 2008 office action still applies.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

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Melanie L. McCollum
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :

Frederic Beseme et al. :
Application No. 10/717,580 : DECISION ON PETITION
Filed: November 21, 2003 : TO WITHDRAW
Attorney Docket No. 105045.01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/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 correspondence address of record remains unchanged.

The attorneys and/or agents associated with Oliff & Berridge remains of record.

There is an outstanding Office action mailed August 24, 2006 that requires a reply from the attorneys of record.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of
Olli-Pekka Pohjola, et al.
Application No. 10/717,601
Filed: November 21, 2003
Atty Docket No.: 088245-2354

ON PETITION

This is a decision on the petition, filed April 3, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 8, 2008, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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.*

The application is being referred to Technology Center AU 2613 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

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OFFICE OF PETITIONS

In re Application of :
Pohjola et al. :
Application No. 10/717,601 : ON APPLICATION FOR
Filed: November 21, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-2354 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed March 10, 2009. Applicant submits that the patent term adjustment to be indicated on the patent is one thousand twenty-nine (1029) days, not five hundred thirty (530) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

[1] Applicants take into consideration that a request for continued examination (RCE) was filed in this application on April 3, 2008. An RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Robert A. Kent
Halliburton Energy Services
2600 S. 2nd Street
Duncan, OK 73536

Mail Date: 04/21/2010

Applicant	: Lewis R. Norman	: DECISION ON REQUEST FOR
Patent Number	: 7595391	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/717,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **616** 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.

FILE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2004 OCT 20 PM 12:35

APPLICANT: MARK, Farvell M. DOCKET NO: 1832P2439cip

SERIAL NO.: 10/717,682; FILED: 11-20-2003

TITLE: FILTRATION AND PURIFICATION SYSTEM AND METHOD THEREFOR

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TC 1700

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Weiss, Moy & Harris, P.C.
4204 North Brown Avenue
Scottsdale, AZ 85251-3989

October 14, 2004

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OFFICE OF PETITIONS

PETITION TO MAKE SPECIAL
UNDER 37 CFR 1.102 AND M.P.E.P. 708.02

Dear Sir:

Applicant petitions that his above-identified patent application be made special because he is over 65 years of age. Enclosed herewith is a copy of his Passport which is offered as a showing of his age.

If there are any fees incurred with this processing of this Petition to Make Special, please charge them to our Deposit Account No. 23-0830.

Respectfully submitted,

Jeffrey D. Moy
Reg. No. 39,307
(480) 994-8888

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Farvell M. MARK
Application No. 10/717,682
Filed: November 20, 2003
Attorney Docket No. 1832P2439cip

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 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 21, 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 prior to the expiration of the maximum extendable period for reply. Accordingly, by operation of law, the above-identified application became abandoned on June 22, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Corrected Application Papers is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Betsy L. Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to the Office of Initial Patent Examination.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ED

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Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis IN 46204-5137

12/12/08

In re Application of:
TRIEU, HAI H.
Serial No.: 10/717,684
Filed: Nov. 20, 2003
Docket: 4002-3269/PC775.00
Title: SYSTEMS AND TECHNIQUES FOR INTERBODY SPINAL STABILIZATION WITH EXPANDABLE DEVICES

DECISION ON PETITION

This is a decision on the petition filed on Nov. 10, 2008 in which the petitioner requests reconsideration and withdrawal of the restriction requirement issued on Jun. 21, 2006. This petition is considered as if pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **DISMISSED**.

The record shows that:

1. In the Jun. 21, 2006 Office action, a restriction requirement between two independent inventions and election of species and subspecies was made.
2. Ultimately on Feb. 12, 2007, the applicant filed a complete response and elected the system of FIG. 1 (to the extent material to method claims), a posterior approach and a device position exemplified in FIG. 3A. Claims 1, 2, 6-30, 33-34 read on the elected subject matter.
3. On May 11, 2007, a non-final Office action was issued. The examiner acknowledged the applicant's election with traverse and reiterated the propriety of the restriction requirement. Also, claims 1-2, 6-27, 29 and 33-34 were rejected and claims 3-5, 28, 38, 31, 32 and 35-71 were withdrawn from consideration.
4. On Aug. 13, 2007, the applicant filed a response to the non-final Office action cancelling a complete set of non-elected claims 35-71, adding dependent claims 72-73 and, inter alia, arguing propriety election of species requirement regarding remaining non-elected claims 3-5, 28, 38, 31, 32.
5. On Mar. 25, 2008, the examiner mailed another election of species requirement based on the claims as amended on Aug. 13, 2008. In particular, the examiner requested for clarification from the applicant regarding how the elected embodiment shown in at least figure 1 which is a tubular device (as shown in figure 2) can function as a motion preserving device.
6. On Apr. 25, 2008, page 10 of the response, the applicant elected species associated with methods including a motion preserving device, with traverse on at least the above grounds.

Claims 1-19, 21-34 and 72-73 read on that subject matter. The applicant believes claim 19 is generic claim because it does not specify either a motion preserving device or a non-motion-preserving device.

7. On Jul. 2, 2008, a final-Office action was mailed. The examiner maintained the rejection of elected claims 1, 2, 6-17, 19-27, 30, 33, 34 and 72-73 and withdrawn non-elected claims 3-5, 18, 28, 29, 31, 32 and 34 from consideration.
8. On Sep. 3, 2008, the applicant files a Rule 116 amendment with no amendment to the claims and included arguments to traverse the rejection.
9. On Oct. 8, 2008, the examiner mailed an Advisory Action informing the applicant that the amendment filed under Rule 116 has be entered.
10. On Nov. 10, 2008, the applicant filed the present petition for withdrawal of restriction requirement of the Mar. 28, 2008 Office action be reviewed and withdrawn.

Discussion and Analysis

The Nov. 10, 2008 petition requested withdrawal of the restriction requirement imposed in the Mar. 25, 2008 Office action. The petitioner asserts that the restriction requirement was improper because the requirement did not focus on the subject matter of the claims, and so is not properly formulated. In particular, the petitioner indicated that there is insufficient evidence in the record to show independence and distinctness

Pursuant to MPEP 803, there are two criteria for a proper restriction requirement: (1) the inventions must be independent or distinct as claimed and (2) there would be a serious burden on the examiner if restriction is not required.

In the Mar. 25, 2008 Office action, the examiner restricted the two species on the basis of being patentably distinct. In the Office action, the examiner identified that two species are 1) Method comprises placing a motion preserving to complete intervertebral distraction device and 2) Method comprises delivery of expandable device to restore and maintain a disc space height which is not a motion preserving device to complete intervertebral distraction. The species are mutually exclusive and are not obvious variants of each other based on the current record. The petitioner's arguments regarding the examiner's failure to focus on the claims because there was no set of figure grouped together to show all of the steps of claim 1. Therefore, the examiner's restriction requirement could not have been made based on the claims. This line of arguments is not is not persuasive. A review of this Office action shows the examiner has properly identified and grouped the species in accordance with MPEP 809.02(a) (B)[1]. In this case, the examiner has chosen to group the claims in accordance with the species to which they are restricted.

[1] MPEP 809.02(B) Clearly identify each (or in aggravated cases at least exemplary ones) of the disclosed species, to which claims are >to be< restricted. The species are preferably identified as the species of figures 1, 2, and 3 or the species of examples I, II, and III, respectively. In the absence of distinct figures or examples to identify the several species, the mechanical means, the particular material, or other distinguishing characteristic of the species should be stated for each species identified. If the species cannot be conveniently identified, the claims may be grouped in accordance with the species to which they are restricted. >Provide reasons why the species are independent or distinct.

In addition, there must be a patentable difference between the species as claimed as required by MPEP 806.04(h)[2]. A review of the record shows that the applicant has not clearly admitted on the record that the species are not patentably distinct or identify any evidence showing the species to be obvious variants (see the last paragraph of page 3 of the Office action of Mar. 25, 2008). Since the claims directed to the Species 1 and 2 are patentable over each other, then, the election of species requirement of Mar. 25, 2008 is proper.

Furthermore, the examiner must establish there is a serious burden on the examiner if restriction is not required, pursuant to MPEP 808.02. In particular, MPEP 808.02(C)[3] states that a serious burden exists where it is necessary for the examiner to search different fields for the restricted species. The last paragraph of page 2 of the Mar. 25, 2008 Office action, the examiner noted that the species do require different fields of search. In particular, the serious search burden arises from the mutually exclusive characteristics of Species 1 and 2. Each species does require a different field of search in different classes/subclasses or electronic resources and/or using different search queries. It should be noted that the application of prior art references to one species would not likely be applicable to another species.

In the petition, the petitioner also requested that the Director acknowledge that the features claimed in other non-elected claims can be rejoined on allowance of a generic claim. This has been stated in the examiner Office action of Mar. 25, 2008 (first paragraph of page 4). In particular, the applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Conclusion

For the reasons outlined above, the restriction requirement imposed in the Mar. 25, 2008 Office action and made final in the Jul. 2, 2008 Office action is in accordance with proper Office procedure. Accordingly, the election of species requirement of Mar. 25, 2008 is proper.

The application is being forwarded to the examiner via his Supervisory Patent Examiner for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

---

[2] MPEP 806.04(h)Species Must Be Patentably Distinct From Each Other[R-3] **In making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other **.

[3] MPEP 808.02 Establishing Burden [R-5] (C)A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

Accordingly, the petition is **DISMISSED**.

Donald T. Hajec, Director
Technology Center 3700

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OFFICE OF THE DIRECTOR
TC 3600

HARSHAW RESEARCH INCORPORATED
P.O. Box 418
Ottawa, KS 66067

In re application of
Dorothy L. Hammond
Application No. 10/717,688
Filed: November 20, 2003
For: AUXILIARY SUN VISOR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on November 20, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Ms. Hammond indicating that she 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: 6/02/04

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2518

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/717694 received on 03/08/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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OFFICE OF PETITIONS

In re Application of
Kuang I. Kuo, et al.
Application No. 10/717,725
Filed: November 19, 2003
Attorney Docket No. 59629-8013.US01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 17, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to respond to a Notice Regarding Drawings mailed July 8, 2005. A Notice of Abandonment was mailed on December 16, 2005. In response, on January 17, 2006, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). However, since no terminal disclaimer is required on revival for any utility application filed after June 8, 1995, the terminal disclaimer filed January 13, 2006 is unnecessary. Accordingly, petitioner is entitled to a refund of the $65 terminal disclaimer fee included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to the Office of Publications to oversee the review of the drawing filed January 17, 2006.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
HANCOCK, et al. :
Application No. 10/717,726 : DECISION ON PETITION
Filed: November 20, 2003 : TO WITHDRAW
Attorney Docket No. H0005279-1623 (256.153US1 : 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 28, 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 Greg A. Peacock n behalf of all attorneys of record who are associated with customer No. 21186. All attorneys/agents associated with Customer Number 21186 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

A Review of the file discloses that a non-final Office action was mailed on August 09, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of August 09, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: William R. Hancock
1026 E. Tierra Bucna Lane
Phoenix, AZ 85022

cc: Ingrassia, Fisher & Lorenz
7150 E. Camelback Road
Suite 325
Scottsdale, AZ 85251

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/717,726	11/20/2003	William R. Hancock	H0005279-1623 (256.153US1

CONFIRMATION NO. 8710

OC000000020966081

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 10/25/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Hancock, et al. : DECISION ON PETITION
Application No. 10/717,726 :
Filed: November 20, 2003 :
Atty. Dkt. No.: H0005279 :

This decision is in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed August 27, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned April 24, 2007 for failure to timely submit a proper reply to the final Office action mailed January 23, 2007. The final Office action set a three month period of time for reply. Notice of Abandonment was mailed August 3, 2007.

Petitioner alleges non-receipt of the final Office action mailed January 23, 2007 as a result of the USPTO's failure to mail the final Office action to the correct correspondence address. Petitioners argue that the change of correspondence address submitted November 10, 2006 was not entered, and, as a result, the final Office action was mailed to former counsel.

The change of correspondence address submitted November 10, 2006 was improper and, thus, the change of address was not entered. The change of correspondence address was not signed by one whose authority to represent either the inventors or an assignee was presented. There is no record that an assignment and a statement pursuant to 37 CFR 3.73(b) has been filed in this application. Accordingly, the power of attorney/change of correspondence address submitted by Miriam Jackson on November 10, 2006 was not proper. Ms. Jackson indicated she represented the assignee. No proof of assignment appears to have been submitted to the USPTO.

Nevertheless, the decision concerning withdrawal of attorney, mailed October 26, 2006, advised that the request to change the correspondence of record was not acceptable as the requested correspondence address is not that of either the first named

signing inventor or an intervening assignee of the entire interest under 37 C.F.R 3.71. Moreover, the decision advised that all future communications from the Office would be directed to the first named signing inventor until otherwise properly notified by the applicant.

While applicants failed to submit a proper change of correspondence address/power of attorney, the Office also failed to mail the final Office action to the first named inventor in accordance with the decision mailed October 26, 2006.

In view thereof, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

Petitioners are advised to **PROMPTLY** submit to the USPTO a proper change of correspondence address/power of attorney as the correspondence address associated with this application remains that of former counsel. While this decision is being mailed to both petitioners and former counsel, petitioners are heretofore put on notice that all future correspondence concerning this application will be addressed to the address currently contained in the record until such time as proper instruction is received to the contrary.

The application file is being forwarded to Technology Center 2600 for re-mailing of the final Office action. The time period for reply will be set in the re-mailed Office action.

To reiterate, if petitioners desire to receive the newly mailed final Office action, and any other correspondence concerning this application, at an address other than that currently contained in the official application file, proper instruction and accompanying documentation must be **PROMPTLY** submitted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: CHAD C. ANDERSON
Ingrassia, Fisher & Lorenz
7150 E. Camelback Road Suite 325
Scottsdale, AZ 85251

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JJGJR.: 03-06

Paper No:__

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OFFICE OF PETITIONS

BLACK LOWE & GRAHAM PLLC
701 FIFTH AVENUE, SUITE 4800
SEATTLE WA 98104

In re Application of :
Black, et al. :
Application No. 10/717,736 :
Filing Date: 20 November, 2003 :
Attorney Docket No.:BING-1-1046 :

DECISION

This is a revised decision on the petition filed on 3 January, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, alternatively alleging unavoidable delay under 37 C.F.R. §1.137(a) and unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below:

- the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**;
- the petition under 37 C.F.R. §1.137(a) is **DISMISSED** and the petition fee ($500.00) is charged as authorized to Deposit Account 50-1050; and
- the petition under 37 C.F.R. §1.137(b) is **GRANTED** and the petition fee ($1,500.00) is charged as authorized to Deposit Account 50-1050.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a Restriction Requirement mailed on 25 March, 2005, with reply due absent extension of time on or before 25 April, 2005;

- the application went abandoned after midnight 25 April, 2005;
- Petitioner filed an Election on 27 October, 2005;
- the Office mailed the Notice of Abandonment on 17 November, 2005;
- Petitioner filed Notices of Change of Address on 27 October, 2005, and on 3 January, 2006;
- on 3 January, 2006, Petitioner filed a request to withdraw the holding of abandonment, and alternatively a petition (with fee authorization) to revive alleging unavoidable delay under 37 C.F.R. §1.137(a), and alternatively a petition (with fee authorization) to revive alleging unintentional delay under 37 C.F.R. §1.137(b)–Petitioner avers that a Notice of Change of Address was forwarded to the Office in 2004 (however, Petitioner does not appear to support this with a copy of the paper and a date-stamped receipt card) and, thus, the 25 March, 2005 Office action (Restriction) was mailed to the wrong address;
- Petitioner avers that his new address was included with his recordation of the assignment, however, as one registered to practice before the Office, Petitioner is aware of the requirement under the Rules of Practice that ever paper is a separate paper (see: under 37 C.F.R. §1.4[1]); and

---

[1] The regulations at 37 C.F.R. §1.4 provide:

§1.4 Nature of correspondence and signature requirements.
(a)Correspondence with the Patent and Trademark Office comprises:
(1)Correspondence relating to services and facilities of the Office,such as general inquiries,
requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations,orders for copies of records,transmission of assignments for recording,and the like,and
(2)Correspondence in and relating to a particular application or other proceeding in the Office.
See particularly the rules relating to the filing,processing,or other proceedings of national applications in subpart B,§§ 1.31 to 1.378;;of international appli-cations in subpart C,§§1.401 to 1.499;of *ex parte* reexaminations of patents in subpart D,§§ 1..501 to 1.570;of interferences in subpart E,§§ 1.601 to 1.690;of extension of patent term in subpart F, §§1.710 to 1.785;of *inter partes* reexaminations of patents in subpart H,§§ 1..902 to 1.997;and of trademark applications §§ 2..11 to 2.189.
(b)Since each file must be complete in itself,a separate copy of every paper to be filed in a patent or trademark application,patent file,trademark registration file,or other proceeding must be furnished for each file to which the paper pertains,even though the contents of the papers filed in two or more files may be identical.The filing of duplicate copies of correspondence in the file of an application,patent,trademark registration file,or other proceeding should be avoided,except in situations in which the Office requires the filing of duplicate copies.The Office may dispose of duplicate copies of correspondence in the file of an application,patent,trademark registration
file,or other proceeding.
(c)Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office,each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.
(d)(1)Each piece of correspondence,except as provided in paragraphs (e)and (f)of this section, filed in an application,patent file,trademark registration file,or other proceeding in the Office which requires a person's signature, must:
(i)Be an original,that is,have an original signature personally signed in permanent ink by that
person;or
(ii)Be a direct or indirect copy,such as a photocopy or facsimile transmission (§ 1.6((d)),of an
original.In the event that a copy of the original is filed,the original should be retained as evidence of authenticity.If a question of authenticity arises,the Office may require submission of the original;or

- with the request and petitions, Petitioner re-advances his Election as a reply, but fails to make the regulatory statement as to unintentional delay .

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

(iii)Where an electronically transmitted trademark filing is permitted,the person who signs the filing must either
(A)Place a symbol comprised of numbers and/or letters between two forward slash marks in the signature block on the electronic submission;
and print,sign and date in permanent ink,and maintain a paper copy of the electronic submission; or
(B)Sign the verified statement using some other form of electronic signature specified by the Commissioner.
(2)The presentation to the Office (whether by signing,filing,submitting,or later advocating)of any paper by a party,whether a practitioner or non-practitioner,constitutes a certification under §10.18(b)of this chapter.Violations of §10.18(b)(2) of this chapter by a party,whether a practitioner or non-practitioner,may result in the imposition of sanctions under § 10.18((c)of this chapter.Any practitioner violating § 10.18(b)may also be subject to disciplinary action.See §§10.18(d) and 10.23(c)(15).
(e)Correspondence requiring person 's signature and relating to registration practice before the Patent and Trademark Office in patent cases,enrollment and disciplinary investigations,or disciplinary proceedings must be submitted with an original signature personally signed in permanent ink by that person.
(f)When a document that is required by statuteto be certified must be filed,a copy,including a photocopy or facsimile transmission,of the certification is not acceptable.
(g)An applicant who has not made of record a registered attorney or agent may be required to state whether assistance was received in the preparation or prosecution of the patent application,for which any compensation or consideration was given or charged, and if so,to disclose the name or names of the person or persons providing such assistance.Assistance includes the preparation for the applicant of the specification and amendments or other papers to be filed in the Patent and Trademark Office,as well as other assistance in such matters,but does not include merely making drawings by draftsmen or stenographic services in typing papers.
[24 FR 10332,Dec.22,1959;43 FR 20461,May 11, 1978;para.(a),48 FR 2707, Jan. 20, 1983, effective Feb. 27,1983; para. (a), 49 FR 48416, Dec.12, 1984, effective Feb. 11, 1985; para. (a)(2), 53 FR 47807, Nov. 28, 1988, effective Jan. 1, 1989; paras. (d)-(f) added, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para.(d) revised & para. (g) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; paras. (a)(2) and (d)(1) revised, 64 FR 48900, Sept. 8, 1999, effective Oct. 30, 1999; paras. (b) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (a)(2) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; para. (d)(1)(iii)(A) amended, 67 FR 79520, Dec. 30, 2002, effective Dec. 30, 2002]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Petitioner has not satisfied the Delgar requirements.

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has not satisfied the showing regulatory requirement as to a petition under 37 C.F.R. §1.137(a).

---

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the petition, fee and reply requirements under the regulation–the terminal disclaimer requirement is not applicable here. However, Petitioner's statement of unintentional delay does not comport with the regulatory requirements.

Therefore, Petitioner's incomplete statement of unintentional delay is being read to state that: the entire delay from the due date of the reply to the filing of a grantable petition was unintentional. If this not correct, Petitioner Dale C. Barr (Reg. No. 40,498) must so notify the Office immediately consistent with his duty of candor to the Office.[9]

With the foregoing presumption, Petitioner is appears to have satisfied the requirements of the regulation.

CONCLUSION

Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, and so the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**. The petition under 37 C.F.R. §1.137(a) is **dismissed**; and the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is forwarded to Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[9] 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 the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Simona Pilone :
Application No. 10/717,828 : ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. 09728.0300US01 :

This is a decision on papers styled "Petition Under 1.17(h)" filed on July 12, 2004, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 20, 2003, including the specification, claims and drawings.

The application was filed on November 20, 2003. However, on June 24, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and the specification, claims and drawings were missing.

In response, on July 12, 2004, the instant petition and eight (8) pages of specification, ten (10) claims, an abstract and two (2) sheets of formal drawings were submitted. The petition states, "Please note Exhibit A, which shows a copy of the postcard returned by the USPTO listing the application serial number and filing date. Note that nothing has been crossed off of the postcard. Under MPEP Chapter 500, Section 503, this serves as proof that all items were received by the USPTO receiving office. Applicant is therefore entitled to the original filing date of November 20, 2003." However, the aforementioned copy of the postcard receipt (Exhibit A) cannot be located in the application file after a thorough review.

As such, petitioner's argument is not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals that the specification, claims and drawings were not filed on November 20, 2003, since no such papers are present in the file. 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. Petitioner has not submitted any evidence to support petitioner's allegation.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office 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 Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

A copy of a postcard receipt that would indicate receipt of the specification, claims and drawings has not been submitted. If petitioner has a postcard receipt date stamped by the Office that indicates receipt of the specification, claims and drawings on November 20, 2003, then the postcard receipt or a copy thereof should be supplied.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If petitioner has a postcard receipt date stamped by the Office that indicates receipt of the specification, claims and drawings on November 20, 2003, then the postcard receipt or a copy thereof should be supplied, accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
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.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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MINNEAPOLIS, MN 55402-0903

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OCT 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Simona Pilone :
Application No. 10/717,828 : ON PETITION
Filed: November 20, 2004 :
Attorney Docket No. 09728.0300US01 :

This is a decision on papers styled "Request For Reconsideration" filed on October 7, 2004, which is being treated as a renewed petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 20, 2003, including the specification, claims and drawings.

The application was filed on November 20, 2003. However, on June 24, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and the specification, claims and drawings were missing.

In response, on July 12, 2004, a petition and eight (8) pages of specification, ten (10) claims, an abstract and two (2) sheets of formal drawings were submitted. A copy of applicant's postcard receipt, submitted October 7, 2004, acknowledges receipt of eight (8) pages of specification, ten (10) claims, one (1) page of abstract and two (2) sheets of formal drawings on November 20, 2003. A review of the application file indicates the presence of zero (0) pages of specification, zero (0) claims and zero (0) sheets of drawings. It is assumed that missing pages of specification, claims, abstract and sheets of drawings were 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. 13-2725.

This application will be returned to OIPE for further processing with a filing date of November 20, 2003, using the eight (8) pages of specification, ten (10) claims, one (1) page of abstract and two (2) sheets of formal drawings, supplied on July 12, 2004.

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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SCOTT P. ZIMMERMAN
P.O. BOX 3822
CARY NC 27519

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Robert A. Koch et al. : ON PETITION
Application No. 10/717,892 :
Filed: November 20, 2003 :
Attorney Docket No. BS02301CON2(KS-02301) :

This is a decision on the petition filed June 5, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-referenced application was held abandoned on February 17, 2006 for failure to file a proper reply to a Final Office Action mailed November 16, 2005 in compliance with 37 CFR 1.113. A response was filed February 10, 2005 but by advisory action mailed May 4, 2005, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Comes now petitioners with the instant petition to revive and Notice of Appeal. Additionally, a review of the file reveals that an Pre-Appeal Brief Request for Review was filed the instant petition and Notice of Appeal.

The Notice of Appeal filed June 5, 2006, has been entered and made of record. Although petitioners have submitted a Pre-Appeal Brief Request for Review and the request is being referred to the Technology Center, petitioners still have a two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, and that the two (2)-month period runs from the date of this decision.

The matter is being referred to Technology Center 2617 for a review of the Notice of Appeal and the Pre-Appeal Brief Request for Review.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Kenichi Ao et al :
Application No. 10/717,902 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 01-527

This is a decision on the petition, filed March 12, 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 14, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TEITELBAUM & MACLEAN
1187 BANK STREET, SUITE 201
OTTAWA ON K1S 3X7 CA CANADA

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of :
Soubie :
Application No. 10/717,914 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 109-1 US :
For: COMPOSITION FOR THE TREATMENT OF BURNS, SUNBURNS, ABRASIONS, ULCERS AND CUTANEOUS IRRITATION :

This is a decision on the petition under 37 CFR 1.137(a), filed August 11, 2005, requesting revival of the above-identified application. The petition will be treated under 37 CFR 1.181 as a request to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely manner to the Restriction Requirement, mailed October 20, 2004, which set forth a 1 month extendable period to reply. The Office contended that this application became abandoned on November 21, 2004 because applicant did not obtain any extensions of time and no reply was allegedly received in the Office. A Notice of Abandonment was mailed on June 2, 2005.

Petitioner asserts that an election/amendment was timely filed in the Office on November 18, 2004. The election/amendment is not in the application file. However, petitioner has submitted a copy of the first page of the November 2004 submission that contains an OIPE mailroom stamp affixed thereto. The mailroom stamp reads "Nov 18 2004".

Petitioner has shown that the election/amendment was present in the Office on November 18, 2004, which was prior to the November 20, 2004 deadline for timely response. Therefore, the petition under 37 CFR 1.181 is **granted** and the Notice of Abandonment is **vacated**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

No petition fee has been or will be charged in connection with this matter.

After this decision is mailed, the application file will be forwarded to Technology Center G.A.U. 1655's technical support staff for processing the election/amendment filed November 18, 2004.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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DIW Oct-06

CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899-2207

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OFFICE OF PETITIONS

In re Application of :
Johan Soderdahl : DECISION ON PETITION
Application No. 10/717,916 :
Filed: 21 November, 2003 :
Atty Docket No. 20260-00079-US :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 28 July, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 7 March, 2006, for failure to timely file a response to the final Office action mailed on 6

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 July, 2006.

The petition lacks the required reply. Petitioner has filed a copy of the amendment filed on 11 July, 2005, in response to the non-final Office action mailed on 9 March, 2005. However, a proper reply must be in response to the final Office action mailed on 6 December, 2005.

As it appears that petitioner may not have a copy of the final Office action mailed on 6 December, 2005, a courtesy copy is enclosed for petitioner's reference in preparing a reply.

Petitioner should file a renewed petition accompanied by a proper reply.

The address on the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address on the petition. All future correspondence will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: CONNOLLY BOVE LODGE & HUTZ LLP
1900 M STREET, N.W., SUITE 800
WASHINGTON DC 20036

Encl: Copy of Office action mailed on 6 December, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,916	11/21/2003	Johan Soderdahl	20260-00079-US	7571

30678 7590 12/06/2005

CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

EXAMINER	
SICONOLFI, ROBERT	
ART UNIT	**PAPER NUMBER**
3683	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/717,916	SODERDAHL, JOHAN	
	Examiner	Art Unit	
	Robert A. Siconolfi	3683	

-- 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 *11 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 11-16* is/are pending in the application.

4a) Of the above claim(s) *11-14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,15 and 16* 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: _____.

DETAILED ACTION

1. Amendment filed on 7/11/05 has been received.

Claim Rejections - 35 USC § 112

2. 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.

3. Claims 1-9, 15, 16 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.

4. Claims 1, 16 discloses a second and third means. The second and third means seem to correspond to the pressure relief valves and the gas volume claimed in dependent claims. However, the elements are not identified as second and third means. Therefore, it is unclear to the examiner as to the scope of the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 1-9 15 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crouch and further in view of Tsuchiya et al (U. S. Patent no. 4,693,454).

Crouch discloses:

See figure 1 piston E, passage m at a position near the fully expanded position

Crouch does not disclose temperature compensation or non-return valves. Ingham teaches temperature compensation and non-return valves (see figure 4 adjustable pressure-relief/temperature compensation valves 21,22, adjustable non-return valve 23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use temperature compensation and non-return valves as taught by Ingham in the device of Crouch in order to ensure that the proper device pressure is available at all times. Changes in temperature can lead to a change of the spring characteristic. The use of these valves allows the spring rate to be maintained over a variety of temperatures.

Crouch, as modified, is relied upon as above. Crouch, as modified, does not disclose connecting the expansion chamber to a gas volume. Tsuchiya et al teaches connecting the expansion chamber to a compressed air source (see figure 9 source 640). It would have been obvious to one of ordinary skill in the art at the time the invention was made to as taught by Tsuchiya et al in the device of Crouch, as modified, in order to operate the gas spring at a pressure different than atmospheric pressure (e.g. higher pressure which would produce a higher spring rate).

Response to Arguments

7. Applicant's arguments filed 7/11/05 have been fully considered but they are not persuasive. Applicants argue none of the references teach a passage between the two chambers open in only one predetermined position. Examiner disagrees and notes passage m.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Siconolfi whose telephone number is 571-272-7124. The examiner can normally be reached on M-F 10 am-3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571) 272-7095. 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).

Robert A. Siconolfi 9/27/05
Robert A. Siconolfi
Primary Examiner
Art Unit 3683

RS

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CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899-2207

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Johan Soderdahl	:	DECISION ON PETITION TO
Application No. 10/717,916	:	WITHDRAW HOLDING OF
Filed: 21 November, 2003	:	ABANDONMENT
Attorney Docket No. 22362-00008-US	:	

This is a decision on the petition filed on 27 December, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the final Office action mailed on 6 December, 2005, which set a three (3)-month shorted statutory period for reply. Notice of Abandonment was mailed on 14 July, 2006. A petition under 37 CFR 1.137(b) was filed on 28 July, 2006, and was dismissed on 27 October, 2006.

Petitioners assert that the final Office action mailed on 6 December, 2005, was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing

outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support, the petition includes a statement from the practitioner, Brian J. Hairston, stating that the Office communication was not received by the practicioner, and attesting to the fact that a search of the file jacket and docket records indicates that the final Office action was not received. A copy of the docket report where the non-received Office action would have been entered had it been received and docketed 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 a Request for Continued Examination (RCE) and a submission in reply to the final Office action mailed on 6 December, 2005, with the present petition. As such the Office action will not be remailed.

As the holding of abandonment has been withdrawn, the petition to revive filed on 28 July, 2006, is moot, since the application was not abandoned in fact. The petition fee will be credited to counsel's deposit account.

The application file is being referred to Technology Center Art Unit 3683 for consideration of the reply filed with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Toshihide Tsubata	: DECISION ON REQUEST FOR
Patent Number	: 7602358	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/717,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 05/18/2010

Applicant : Toshihide Tsubata
Patent Number : 7602358
Issue Date : 10/13/2009
Application No: 10/717,917
Filed : 11/21/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **521** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of :
Wade Martin Poteet et al :
Application No. 10/717,921 : DECISION ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 86581-0003 :

This is a decision on the petition, filed November 10, 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 timely respond to the Office action of January 30, 2008, which set a three (3) month shortened statutory period for reply. A reply was due on or before April 30, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 25, 2008 of, *inter alia,* amendment transmittal, amendment and response and request for refund. A copy of the previously submitted reply accompanies the petition.

The reply acknowledged as having been received in the USPTO on April 25, 2008 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The request for refund submitted with the response will be decided by the Technology Center AU 2884.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 25, 2008.

This application is being referred to Technology Center AU 2884 for appropriate action in the normal course of business on the reply received with petition.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Wade Martin Poteet et al :
Application No. 10/717,921 : DECISION ON PETITION
Filed: November 21, 2003 : TO WITHDRAW
Attorney Docket No. 86581-0003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 2009.

The request is **APPROVED**.

The request was signed by Kirk O. Hahn on behalf of all attorneys of record who are associated with customer No. 24633.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to assignee CDEX, Inc. address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: CDEX, Inc.
4555 S. Palo Verde, Suite 123
Tucson, AZ 85714

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON, CT 06340

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AUG 31 2005

OFFICE OF PETITIONS

In re Application of :
David H.B. Ripin :
Application No. 10/717,958 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. PC23265A

This is a decision on the petition, filed August 22, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and the amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 16 2008

In re Application of	:	
Yoshifumi Tanada, et al.	:	
Application No. 10/717,970	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. 12732-178001 / US6774	:	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, 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 Babak Akhlaghi on behalf of himself.

Babak Akhlaghi has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FEB -7 2005

In re Application of	:	
Bernard Strong	:	
Serial No. 10/717,979	:	DECISION ON PETITION
Filed: November 20, 2003	:	TO WITHDRAW AS ATTORNEY
For: LIQUID DISPOSABLE PLASTIC CONTAINER	:	

By papers filed on December 21, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Mr. Bill LaGamba
DrugMax, Inc.
25400 U.S. Highway 19 North, Suite 137
Clearwater, FL 33763

E.R. Kazenske, Director
Technology Center 3700

Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

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Paper No.

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P. O. Box 9133
Concord, MA 01742-9133

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MAY 25 2004
OFFICE OF PETITIONS

In re Application of :
James A. Proctor, Jr., et al. :
Application No. 10/717,995 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. 2479.2138-001 :

This is in response to the petition under 37 CFR 1.47(a), filed April 19, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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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 18 2007

OFFICE OF PETITIONS

In re Application of
PROCTOR, et al.
Application No. 10/717,995
Filed: November 20, 2003
Attorney Docket No. **2479.2138-001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to HAMILTON BROOK SMITH & REYNOLDS PC has been revoked by the assignee of the patent application on February 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: **VOLPE & KOENIG PC**
30 SOUTH 17TH STREET, SUITE 1600
UNITED PLAZA, DEPT. ICC
PHILADELPHIA, PA 19103

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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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Tomohiro Oshiyama	: DECISION ON REQUEST FOR
Patent Number	: 7629060	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/718,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **511** 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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Paper No.

JOHN G TOLOMEI, PATENT DEPARTMENT
UOP LLC
25 EAST ALGONQUIN ROAD
P O BOX 5017
DES PLAINES, IL 60017-5017

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Gillespie et al. : DECISION ON PETITION
Application No. 10/718,050 :
Filed: November 20, 2003 :
Attorney Docket No. 106207-1 :
:

This is a decision on the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S) CONSIDERED AS NOT RECEIVED BY THE P.T.O. ...," filed July 22, 2004. This petition is properly considered under 1.53(e)(2).

Application papers in the above-identified application were deposited on November 20, 2003. However, on July 7, 2004, the Office 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.

Petitioner responded with the instant petition (and petition fee). Petitioner asserts that the items indicated as omitted, the drawings, were in fact deposited with the P.T.O. with the original application papers filed on November 20, 2003. In support thereof, petitioner submitted a copy of their date-stamped return postcard. Petitioner also supplied a copy of the 2 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. A review of the postcard receipt reveals that: 1) it bears an OIPE date-stamp acknowledging receipt on November 20, 2003 of the correspondence assigned application No. 10/718,050, 2) it identifies the items being filed, including "2 SHEETS OF FORMAL DRAWINGS," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the two sheets of drawings, were filed on November 20, 2003.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to petitioner's credit card.

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 20, 2003, using the application papers received in the Office and presently accorded that date; and the 2 sheets of formal drawings containing Figures 1-2 re-supplied on petition filed July 22, 2004; and

- with indication in Office records, as appropriate, that the application as filed included 2 sheets of formal drawings.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OCT 18 2004

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OCT 18 2004

OFFICE OF THE DIRECTOR
TC 3600

Kremblas, Foster, Phillips & Pollick
7632 Slate Ridge Boulevard
Reynoldsburg, OH 43068

In re application of
Michael A. Woodruff
Application No. 10/718,078
Filed: November 20, 2003
For: ILLUMINATED DISPLAY DEVICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on November 20, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (E) above. In this regard, the petition does not include a detailed discussion of how the claimed subject matter is patentable over each of the references located in applicant's search, and cited in the Information Disclosure Statement filed November 20, 2003.

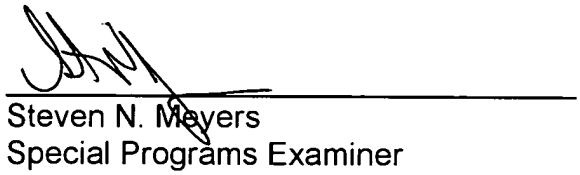
For the above stated reasons, the petition is **DISMISSED**.

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.

SUMMARY: Petition to Make Special **DISMISSED**.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 10/12/04

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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NOV 22 2004

OFFICE OF THE DIRECTOR
TC 3600

Kremblas, Foster, Phillips & Pollick
7632 Slate Ridge Boulevard
Reynoldsburg, OH 43068

In re application of
Michael A. Woodruff
Application No. 10/718,078
Filed: November 20, 2003
For: ILLUMINATED DISPLAY DEVICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on November 1, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

SNM/rwg: 11/06/04

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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JAN 26 2006

OFFICE OF PETITIONS

KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

In re Application of :
Michael A. Woodruff :
Application No. 10/718,078 : DECISION ON PETITION UNDER
Application Filing Date: November 20, 2003 : 37 CFR 1.137(f)
Attorney Docket No. WDRFJ 100

This is a decision on the petition under 37 CFR 1.137(f), filed December 8, 2005, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

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[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 3600, GAU 3611 for further processing.

Further inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Communication Regarding Rescission of Non-Publication Request and/or Notice of Foreign Filing"
Corrected Filing Receipt

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

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Paper No.

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MAY 06 2004

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/718,083	:	
Filed: November 19, 2003	:	ON PETITION
Attorney Docket No.	:	
MUTU12.001DV1	:	

This is a decision on the Petition Under 37 CFR 1.52(e)(2) to Review the Non-Accordance of Filing Date, filed April 8, 2004, requesting the above-identified application be accorded a filing date of November 19, 2003.

The petition is granted.

The application was filed on November 19, 2003. On February 19, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Provisional Application (hereinafter "Notice") stating that the application had not been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant avers that the drawings are not necessary for an understanding of the invention, and are not required under 35 U.S.C. § 113.

A review of the file reveals that Petitioner is correct - the specification contains method claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. § 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the Notice mailed February 19, 2004, was mailed in error and is hereby withdrawn.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of November 19, 2003, and an indication that no drawings were required nor present on filing.

The petition fee has been refunded to deposit account 11-1410 as authorized in the instant petition.

Telephone inquiries concerning this matter 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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PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO CA 94111

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of
Nikoonahad, Lee, Kwak, Edelstein, Zhao & Janik
Application No. 10/718,126
Filed: November 19, 2003
Attorney Docket No. TNCR.197US1
For: OPTICAL SYSTEM FOR MEASURING SAMPLES USING SHORT WAVELENGTH RADIATION

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 22, 2004 (certificate of mailing date April 19, 2004).

The petition is granted.

Petitioners have shown that the non-signing inventor, Mehrdad Nikoonahad, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney James S. Hsue 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. In addition, Mr. Nikoonahad orally refused to cooperate in the filing of this application during two telephone conversations with Attorney Hsue that took place in February 2004. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

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

MEHRDAD NIKOONAHAD
271 OAKHURST PLACE
MENLO PART, CA 94025

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Nikoonahad, Lee, Kwak, Edelstein, Zhao & Janik :
Application No. 10/718,126 : LETTER
Filed: November 19, 2003 :
Attorney Docket No. TNCR.197US1 :
For: OPTICAL SYSTEM FOR MEASURING SAMPLES USING SHORT WAVELENGTH RADIATION

Dear Mr. Nikoonahad:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C: 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO CA 94111

IFW

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/718,147

Paper No.: _____

DATE : 12-04

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction on Patent No.: 6,917,206
A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - ~~PK 3-922~~ S/T 9A22
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.

Check columns

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 proposed change to claim 13 is not proper, as this claim did not depend directly from claim 1.

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
~~TECHNOLOGY CENTER 2800~~
SPE

2858
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Peter J. Gordon, Patent Counsel
Avid Technology, Inc.
One Park West
Tewksbury, MA 01876

In re Application of:
Claude Cajolet, et. al
Application No.10/718,161
Filed: November 20, 2003
Attorney Docket No. A1998037(2)C

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue due to an office mistake. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Heather Shackleford, at (571)-272-7049.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of :

Goth, et al. :

Application No. 10/718,164 : DECISION ON PETITION

Filed: November 19, 2003 :

Attorney Docket No. 155694-0125

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 27, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **dismissed**.

This application was held abandoned on March 27, 2005, after it was believed that a proper response was received to the final Office action mailed December 27, 2005. The final Office action allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A reply was filed on March 22, 2006. By an Advisory Action mailed April 3, 2006, petitioner was advised that the response of March 22, 2006, failed to place the application in condition for allowance. No additional replies were received within the allowable period. A Notice of Abandonment was mailed October 16, 2006, indicating that a reply to the final Office action was not received.

The instant petition maintains that a Request for Continued Examination (RCE) that is responsive to the final Office action was filed on April 7, 2006. A copy of the RCE containing a certificate of mailing dated April 7, 2006, accompanied the petition. A copy of a postcard also accompanied the petition, but no Office date-stamp was found thereon. Accordingly, the postcard cannot be used as *prima facie* evidence that the RCE was received April 7, 2006. The certificate of mailing can be used, however. It is noted that Ms. Susan Langworthy signed the certificate of mailing. It is noted that a statement of personal knowledge from Ms. Langworthy regarding the mailing of the response did not accompany the petition.

Section 711.03 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of

> a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

The record reflects that the subject certificate under 37 CFR 1.8 was signed by Susan Langworthy, but that no statement of personal knowledge regarding the timely mailing of the reply accompanied the petition document. It is further noted that the petition document did not explain how Mr. Yorks—who signed the petition document—had firsthand knowledge of the mailing. The evidence provided with the petition is, therefore, insufficient. The petition is dismissed, accordingly. Any renewed petition filed must be accompanied by a statement from Ms. Langworthy or from Mr. Yorks that complies with the guidance cited in MPEP § 711.03 cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

OIPE MAIL
FEB 12 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Paul Goth *et al.*

Application No.: 10/718,164

Filed: November 19, 2003

For: A THERMOKERATOPLASTY SYSTEM WITH A CALIBRATED POWER SUPPLY

Examiner: Michael F. Peffley

Art Group: 3739

RESPONSE TO DECISION ON PETITION

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Petition mailed January 26, 2007, please find enclosed a copy of the postcard with the official Patent Office date stamp and a copy of the PAIR Transaction History for the instant application showing the RCE submitted on April 7, 2007 was received in the Patent Office on April 13, 2007. Also enclosed is a declaration signed by Susan Langworthy attesting proof of mailing. In view of the foregoing, the applicant respectfully requests that the holding of abandonment be withdrawn.

If any fee is required, please charge Deposit Account No. 09-0946. A duplicate of the Fee Transmittal is enclosed for deposit account charging purposes.

Respectfully submitted,
IRELL & MANELLA LLP

Dated: February 8, 2007

Ben J. Yorks, Reg. No. 33,609

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 8, 2007.

Susan Langworthy — Feb 8, 2007
Susan Langworthy — Date

840 Newport Center Drive
Suite 400
Newport Beach, CA 92660-6324
(949) 760-0991

Our Docket No. 155694-0125(P008)
1638229

OIPE
FEB 12 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Paul Goth *et al.*	Examiner: Michael F. Peffley
Application No.: 10/718,164	Art Group: 3739
Filed: November 19, 2003	
For: A THERMOKERATOPLASTY SYSTEM WITH A CALIBRATED POWER SUPPLY	

DECLARATION OF SUSAN LANGWORTHY IN SUPPORT OF REQUEST FOR WITHDRAWAL OF ABANDONMENT

MS Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Susan Langworthy, hereby declare as follows:

1. I am a legal secretary employed at Irell & Manella LLP, where I assist Ben Yorks. Among other duties I assist with the preparation and mailing of documents to be filed with the Patent and Trademark Office. These documents include my signature on the Certificates of Mailing.

2. On April 7, 2006, I mailed the Request for Continued Examination (RCE) Transmittal document along with a Fee Transmittal Form (in duplicate). The RCE contained a Certificate of Mailing executed by my hand on that date for the above entitled application. Also mailed with these documents on April 7, 2006 was the self-addressed stamped postcard, which we recently received back from the PTO with a date stamp of April 13, 2006.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

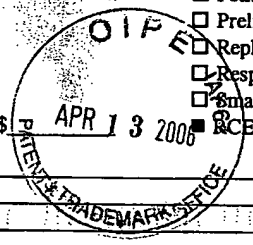
Dated: February 8, 2007

Susan Langworthy

Appln/Patent No.: 10/718,164 Filing/Issue Date: November 19, 2003
Client: Refractec, Inc.
Title: A THERMOKERATOPLASTY SYSTEM WITH A CALIBRATED RF AMPLIFIER
Atty Docket No.: 155694-0125 Matter No.: P008 Atty/Sec: BJY/sml
Date Mailed: April 7, 2006 Due Date: April 27, 2006

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- ☐ AF Amendment (7 pgs)
- ☐ Appeal Brief (__ pgs) (in triplicate)
- ☐ Application - Utility (__ pgs., w/ cover &abstract)
- ☐ Application - Rule 1.53(b) Continuation (__ pgs)
- ☐ Application - Rule 1.53(b) Divisional (__ pgs)
- ☐ Application - Rule 1.53(b) CIP (__ pgs)
- ☐ Application - Rule 1.53(d) CPA Transmittal (__ pgs)
- ☐ Application - Design (__ pgs)
- ☐ Application - PCT (__ pgs)
- ☐ Application - Provisional (__ pgs)
- ☐ Assignment and Cover Sheet (__ pgs)
- ☐ Certificate of Mailing
- ☐ Check No. _____ in the amount of $_____
- ☐ Other: _____
- ☐ Declaration and Power of Attorney (__ pgs)
- ☐ Drawings: __# of sheets, incl ___ figures
- ☐ Express Mail Label No. _____.
- ■ Fee Transmittal, in duplicate
- ☐ Information Discl Stmt & PTO-1449 (__ pgs)
- ☐ Issue Fee Transmittal, in duplicate
- ☐ Notice of Appeal (__ pgs)
- ☐ Petition for Extension of Time (__ pgs)
- ☐ Preliminary Amendment (2 pgs)
- ☐ Reply Brief (__ pgs)
- ☐ Response to Notice of Missing Parts (__ pgs)
- ☐ Small Entity Declaration (__ pgs)
- ■ RCE Transmittalr



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Patent Official Gazette

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Reports

Patent Application Information Retrieval

Select Search Method: Enter Number:

Application Number | SUBMIT

10/718,164 Thermokeratoplasty system with a calibrated radio fr

Application Data | Transaction History | Image File Wrapper | Continuity Data | Published Documents | Publication Dates | Attorney

Transaction History

Date	Transaction Description
01-26-2007	Petition Decision - Dismissed
11-27-2006	Petition Entered
10-16-2006	Mail Abandonment for Failure to Respond to Office A
10-13-2006	Abandonment for Failure to Respond to Office Action
04-13-2006	Workflow - Request for RCE - Begin
04-13-2006	Workflow - Request for RCE - Finish
04-13-2006	Workflow - Request for RCE - Begin
04-13-2006	Workflow - Request for RCE - Finish
04-13-2006	Workflow - Request for RCE - Begin
04-03-2006	Mail Advisory Action (PTOL - 303)
03-30-2006	Advisory Action (PTOL-303)
03-27-2006	Date Forwarded to Examiner
03-22-2006	Amendment after Final Rejection
12-27-2005	Mail Final Rejection (PTOL - 326)
12-22-2005	Final Rejection
10-20-2005	Date Forwarded to Examiner
10-07-2005	Response after Non-Final Action
07-05-2005	Mail Non-Final Rejection
06-30-2005	Non-Final Rejection
06-23-2005	Reference capture on IDS
06-23-2005	Information Disclosure Statement (IDS) Filed
05-23-2005	Date Forwarded to Examiner
05-19-2005	Response to Election / Restriction Filed
05-03-2005	Mail Restriction Requirement
05-02-2005	Requirement for Restriction / Election
10-15-2004	IFW TSS Processing by Tech Center Complete

10-15-2004	Case Docketed to Examiner in GAU
02-18-2004	Application Dispatched from OIPE
02-18-2004	Application Is Now Complete
02-05-2004	Cleared by OIPE CSR
12-23-2003	IFW Scan & PACR Auto Security Review
11-19-2003	Initial Exam Team nn

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll fr about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Conta*
- *If you experience technical difficulties or problems with this applicat Business Support or call 1 800-786-9199.*

1995-01-31 - Notice of allowance - mailed

1994-11-08 - Published for opposition

1994-10-07 - Notice of publication

1994-07-26 - Approved for Pub - Principal Register (Initial exam)

1994-07-20 - Examiner's amendment mailed

1994-07-16 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
BEN YORKS

Correspondent
BEN YORKS
TRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE, SUITE 400
NEWPORT BEACH, CA 92660-6324

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHIEF PATENT COUNSEL
TYCO HEALTHCARE GROUP
195 MCDERMOTT ROAD
NORTH HAVEN, CT 06473

COPY MAILED

OCT 15 2007

OFFICE OF PETITIONS

In re Application of :
David C, Racenet, et al. :
Application No. 10/718,195 : DECISION GRANTING PETITION
Filed: November 20, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1879 CON III :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 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 September 1, 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 3743 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.*

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

D.C. Peter Chu
LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

Inventor: CHRYSANTHAKOPOULOS, G. et. al
Application No. **10/718,199**
Filed: November 20, 2003
Atty Docket No: MS1-4035US
Title of Invention: DECENTRALIZED OPERATING SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to petition filed 04/01/04 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **Granted**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
>
> (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The

application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

Petition to Make Special is **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) met.

Accelerated examination in accordance with M.P.E.P. §708.02, Section VIII will be applied to the above-mentioned application. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Any inquiry regarding this decision should be directed to undersigning Beatriz Prieto, Workgroup Quality Assurance Specialist (WQAS), at (571) 272-3902. A second point of contact is WQAS Kim Huynh whose number is (571) 272-4147

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,199	11/20/2003	Georgios Chrysanthakopoulos	MS1-4035US	9817

22801 7590 05/07/2010

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

EXAMINER	
EL CHANTI, HUSSEIN A	
ART UNIT	**PAPER NUMBER**
2457	

NOTIFICATION DATE	DELIVERY MODE
05/07/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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DEC 0 8 2008

In re Application of :
Accad et al. :
Application No. 10/718,211 : DECISION ON PETITION
Filed: 11/20/2003 :
Attorney Docket No. EFIM0506 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 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)." No additional petition fee is necessary.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of January 25, 2008, which set a three (3) month shortened statutory period for reply. On July 25, 2008, petitioners submitted an amendment and a request for an extension of time for response within the third month. As the amendment did not place the application in condition for allowance, the application became abandoned on July 26, 2008.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). 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);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

With the present petition, petitioners submitted an amendment in response to the final Office action; however, the examiner found that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision.

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Advisory Action Before the Filing of an Appeal Brief	**Application No.**	**Applicant(s)**	
	10/718,211	ACCAD ET AL.	
	Examiner	**Art Unit**	
	JACKY X. ZHENG	2625	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED August 11, 2008 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: *1-64*.
   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: _____.

/J. X. Z./
Examiner, Art Unit 2625

Continuation of 3. NOTE: The newly-added and/or amended claim limitations in the pending claims provided in the amendment/remarks filed on August 11, 2008 (such as in independent claims 1, 11, 21, 30, 40, 50 and 59, as well as in dependent claims 22 and 60) will require performing of further prior art searches and, at least the additional consideration under 35 USC 112, first and/or second paragraph(s).

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Accad et al. :
Application No. 10/718,211 : DECISION ON PETITION
Filed: 11/20/2003 :
Attorney Docket No. EFIM0506 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 6, 2009, to revive the above-identified application.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of January 25, 2008, which set a three (3) month shortened statutory period for reply. On July 25, 2008, petitioners submitted an amendment and a request for an extension of time for response within the third month. As the amendment did not place the application in condition for allowance, the application became abandoned on July 26, 2008.

On renewed petition, petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination and submission, paid the petition fee, and made the proper statement of unintentional delay.

The renewed petition under 37 CFR 1.137(b) is **GRANTED.**

This matter is being referred to Technology Center Art Unit 2625.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE NC 28280-4000

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AUG 25 2008

In re Application of
Mangiardi, et al.
Application No. 10/718,217
Filed: November 20, 2003
Attorney Docket No. 047956288215
For: DIFFERENTIAL COVERING AND COATING METHODS

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed July 9, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed January 4, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on April 5, 2007 for failure to reply to the January 4, 2007 non-final Office action. A Notice of Abandonment was mailed on July 24, 2007.

The Office received an acceptable Power of Attorney and Change of Address on March 3, 2005. Unfortunately, the Office did not recognize and enter the requests in the documents and the January 4, 2007 non-final Office action was mailed to the previous correspondence address of record. The Office erred in not changing Office records to reflect the new correspondence address and empowered practitioners. This error resulted in the January 4, 2007 non-final Office action being mailed to an incorrect address.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter. The Power of Attorney and Change of Address, filed March 3, 2005, have been entered into Office databases.

Accordingly, the application file will be forwarded to Technology Center A.U. 3734 for the re-mailing of the January 4, 2007 non-final Office action with a new period set for response.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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OFFICE OF PETITIONS

In re Patent No. 6866692 :
Issue Date: 03/15/2005 :
Application Number: 10/718220 :
Filing or 371(c) Date: 11/20/2003 :
Attorney Docket Number: 63841US003 :

NOTICE

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 applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood

Douglas Wood
Attorney
Office of Petitions

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OFFICE OF PETITIONS

ANVIK CORPORATION
6 SKYLINE DRIVE
HAWTHORNE, NY 10532

In re Application of :
Kanti Jain, et al. :
Application No. 10/718,223 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. A304 :

This is a decision on the petition, filed May 19, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice Regarding Drawings mailed February 7, 2006. A Notice of Abandonment was mailed on May 11, 2006. In response, on May 19, 2006, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing filed May 10, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,233	11/19/2003	Jerome M. Klosowski	27702/38513	9906

4743 7590 03/06/2008

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

EXAMINER	
POULOS, SANDRA K	
ART UNIT	PAPER NUMBER
1714	

MAIL DATE	DELIVERY MODE
03/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080226

DATE : February 26, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction on Patent No.: 7,144,937

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:

Note added for clarity of record: For the change in column 35, line 1, patentee appears to have inadvertently omitted a comma (,) after R8 in the part requiring a change which is to delete the comma.

SPE: /Vasu Jagannathan/ Art Unit 1796

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MAY 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Stefan et al.	:	
Application No. 10/718,234	:	ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 11721-037	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 26, 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 substitute 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.

A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to the Publishing Division for 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

Cc:

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 05/13/2010

Applicant	: Mitsutoshi Shinkai	: DECISION ON REQUEST FOR
Patent Number	: 7636721	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/718,247	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1573** 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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MARATHON OIL COMPANY
C/O LAW OFFICE OF JACK E. EBEL
165 SOUTH UNION BOULEVARD
SUITE 902
LAKEWOOD CO 80228

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Waycuilis :
Application No. 10/718,249 : DECISION
Filed: 19 November, 2003 :
Attorney Docket No. 990018 USA P02 :

This is a decision on the petition filed on 20 August, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to non-final Office action mailed on 1 December, 2006, with reply due absent extension of time on or before 1 March, 2007;
- On 5 March, 2007, Petitioner filed a reply in the form of a Terminal Disclaimer (double patenting) and fee as to Patent No. 6,703,534, the extension of time authorized apparently was not charged at the time because the reply was incomplete in that it did not address the double patenting rejection as to Patent No. 6,350,928;
- the application went abandoned by operation of law after midnight 1 March, 2007;
- the Office mailed the Notice of Abandonment on 8 August, 2007;

- on 20 August, 2007, Petitioner submitted the instant petition under 37 C.F.R. §1.137(b) with fee and reply in the form of a Terminal Disclimainer and fee (double patenting) as to as to Patent No. 6,350,928, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is 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.

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

And the Petitioner must be diligent in attending to the matter.[4] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

(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.[5]))

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and–where appropriate—a terminal disclaimer and fee.

Petitioner appears to have satisfied the requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 1764 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] 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.

[5] 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.

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of :
Lionel M. Nelson et al :
Application No. 10/718,254 : DECISION ON PETITION
Filed: November 20, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9473.18472

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed November 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

A petition 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 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 amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in

a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

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 facsimile:	(703) 872-9306 ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Lionel M. Nelson et al :
Application No. 10/718,254 : DECISION ON PETITION
Filed: November 20, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9473.18472

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the renewed petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37

CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3743 for appropriate action on the amendment filed May 31, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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ROBERT W. STROZIER
P. O. BOX 429
BELLAIRE, TX 77402-0429

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JUN 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Keith A. Robinson	:	
Application No. 10/718,259	:	DECISION ON PETITION
Filed: November 20, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02008/01CIPC2	:	

This is a decision on the petition treated under 37 CFR 1.78(a)(3), filed January 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/341,524, filed January 13, 2003, as set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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 benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3617 for such further action as the nature of the case may require.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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John P. White
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Castelhano et al. :
Application No. 10/718,280 :
Filed: November 20, 2003 : ON PETITION
Title of Invention: COMPOUNDS :
SPECIFIC TO ADENOSINE A, :
RECEPTORS AND USES THEREOF :

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 28, 2005, 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 14, 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 15, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the March 14, 2005 Office action is filed with the instant petition. Accordingly, the petition is granted.

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

This application is being forwarded to Technology Center Art Unit 1616 for processing of the Amendment in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Cc: KIM T. NGUYEN
OSI PHARMACEUTICALS, INC.
58 SOUTH SERVICE ROAD, STE. 110
MELVILLE, NY 11747

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OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Patent No. 7,598,252	: DECISION ON REQUEST FOR
Castelhano et al.	: RECONSIDERATION OF
Issue Date: October 6, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/718,280	: and
Filed: November 20, 2003	: NOTICE OF INTENT TO ISSUE
Atty Docket No.: 60390-IA/JPW /GJG/JBC	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand and seventy-four (1074) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand and seventy-four (1074) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand and seventy-four (1074) 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

CERTIFICATE OF CORRECTION

PATENT : 7,598,252 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : **Castelhano 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 725 days

Delete the phrase "by 1074 days" and insert – by 1074 days --

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ALPHONSE DUPERRON
7359 D'IBERVILLE MTL
ZC H2E 2Y9
CANADA

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of
Duperron
Application No. 10/718,296
Filed: November 21, 2003
Attorney Docket No. N/A
FOR: INSTANTANEOUS EVACUATION TUBE

: DECISION GRANTING
: PETITION

This is a decision on the petition filed April 12, 2004 requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed February 19, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on November 21, 2003. On February 19, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the above-identified application because the application as filed did not include a written description of the invention. In addition, the Notice required petitioner to submit the basic filing fee and a substitute specification with proper line spacing.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of November 21, 2003.

A review of the application papers filed on November 21, 2003 reveals that while a formal specification was not filed on November 21, 2003, the drawings filed on that date contain a sufficient amount of text to be considered an informal specification. Therefore, a specification was present on November 21, 2003, albeit in an unacceptable format. The claims filed on November 21, 2003 are not in proper format; nevertheless, they are claims.

Therefore, the application papers filed on November 21, 2003 contained the minimum for accordation of a filing date – a specification with a written description of the invention, at least one claim, and drawings of the invention. 37 CFR 1.53(b)

Accordingly, the request to accord the above-identified application a filing date is granted.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of November 21, 2003. The Office of Initial Patent Examination will mail a corrected filing receipt.

Petitioner should have received or will shortly receive additional correspondence, including a new Notice, from the Office of Initial Patent Examination. This correspondence will set new requirements relating to the format and content of the application and will specify a new time period in which to meet the new requirements.

Best Available Copy

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

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 05 2006

OFFICE OF PETITIONS

Alphonse Du Perron
6210 Boulevard St-Michel #2
Montreal QC H2E 2Y9 CA CANADA

In re Application of :
Alphonse Du Perron :
Application No. 10/718,296 :
Filed: November 21, 2003 :
Title: INSTANTANEOUS EVACUATION TUBE :

DECISION ON PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 C.F.R. §1.137(a), which is properly treated as a petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on October 25, 2005.

The Office regrets the period of delay in issuing this decision.

Petitioner will note that the present petition does not carry a fee, and $55 was submitted with the current filing. Consequently, a treasury check will be issued in due course.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 9, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 10, 2005. A notice of abandonment was mailed on September 23, 2005.

With the present petition, Petitioner has alleged that the mailing was not received.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

MPEP 711.03(c) states, in part:

> PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
>
> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

The electronic file record has been reviewed, and the non-final Office action was returned to the Office as undeliverable on April 20, 2005.

It is noted that on September 17, 2004, a change of address was received from the applicant, containing this address:

> 6210 Boulevard St-Michel #2, MTL QC ~~H2E 2Y9~~ H1Y2E7

The change of address was entered and made of record, accordingly. The missing communication was addressed to:

> Alphonse Du Perron
> 6210 Boulevard St-Michel #2
> MTL, QC H1Y 2E7
> CANADA

With the present submission, Petitioner has included a Change of Correspondence request, which has been entered and made of record. The request indicates that the address should be changed to 6210 Boulevard St-Michel #2, MTL QC H2E 2Y9 (emphasis added). Curiously, the return address, which is listed on this same Change of Correspondence request, contains the zip code H1Y 2E7.

It appears that Petitioner is confused as to what his zip code is. Consequently, the Office mailed the non-final Office action to the improper address which was provided by Petitioner, and since this address was incorrect, the mailing was returned to the Office as undeliverable.

Accordingly, Petitioner's assertion that the Office action was not received is insufficient to justify withdrawing the holding of abandonment, as the failure to receive the Office action occurred due to Petitioner's error.

CONCLUSION

Pursuant to the discussion above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181 *and/or §§1.137(a) and/or (b)*." This is not a final agency action within the meaning of 5 U.S.C 704.

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

ALTERNATE VENUE

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b). For a small entity, petitions under 37 C.F.R. §§1.137(a) and (b) carry the fees of $250 and $750, respectively.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. copy of the Office action of March 9, 2005

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

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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 N .	CONFIRMATION NO.
10/718,296	11/21/2003	Alphonse Du Perron		9759

7590 03/09/2005

ALPHONSE DUPERRON
6210 Boulevard St-Michel #2
MTL, QC HIY 2E7
CANADA

EXAMINER	
THOMPSON, HUGH B	

ART UNIT	PAPER NUMBER
3634	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/718,296	DU PERRON, ALPHONSE	
	Examiner	Art Unit	
	Hugh B. Thompson II	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1* 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 _____ 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

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.
(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).

Content of Specification

(a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

(b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

(c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

(d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) 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 were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, 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: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(k) Sequence Listing, See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

PROPER CONTENT OF AN ABSTRACT

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old

apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Rejections - 35 USC § 112

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.

Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. There appears to be no claim 1.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. ***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. As such, no rejection based upon the prior art of record can be made at this time as it would required undue speculation on the part of the Examiner as to determine the metes and bounds of claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jerome #6,585,081, Bockhold #6,408,982, Bell et al #6,102,762, and Forrester #5,620,058 are cited to teach escape chute systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hugh B. Thompson II
Primary Examiner
Art Unit 3634

March 7, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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AUG 0 8 2007

OFFICE OF PETITIONS

Alphonse Duperron
1217 rue Bernard #28
Montreal QC H2V 1V7 CA CANADA

In re Application of :
Alphonse Du Perron :
Application No. 10/718,296 :
Filed: November 21, 2003 :
Title: INSTANTANEOUS EVACUATION TUBE :

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on July 31, 2006.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 9, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 10, 2005. A notice of abandonment was mailed on September 23, 2005.

The original petition was filed on October 25, 2005, and was dismissed via the mailing of a decision on June 5, 2006.

The decision on the original petition set forth "The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181 *and/or §§1.137(a) and/or (b)*." This renewed petition failed to contain this identifier. Consequently, it was not recognized by the Office as a petition, and was not routed to the Office of Petitions for consideration.

ANALYSIS

37 C.F.R. §10.18(a) sets forth:

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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

The present petition has not been executed, and as such, it cannot be processed. For this reason, the petition under 37 C.F.R. § 1.181(a) is **DISMISSED.**

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. **The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.181 *and/or §§1.137(a) and/or (b)*." Failure to properly label the response might result in further processing delays.** This is not a final agency action within the meaning of 5 U.S.C 704.

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

ALTERNATE VENUE

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b). For a small entity, petitions under 37 C.F.R. §§1.137(a) and (b) carry the fees of $250 and $750, respectively.

The change of correspondence address has been entered and made of record.

Petitioner has further submitted $250 for an extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply[4].

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Accordingly, since the $250 extension of time submitted with the petition on July 31, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary. A Treasury Check will be issued in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SEP 21 2007

OFFICE OF PETITIONS

Alphonse Duperron
1217 rue Bernard #28
Montreal QC H2V 1V7 CA CANADA

In re Application of	:	
Alphonse Du Perron	:	DECISION ON SECOND RENEWED
Application No. 10/718,296	:	PETITION UNDER
Filed: November 21, 2003	:	37 C.F.R. § 1.181(A)
Title: INSTANTANEOUS EVACUATION TUBE	:	
	:	

This is a decision on the second renewed petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on September 4, 2007.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 9, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 10, 2005. A notice of abandonment was mailed on September 23, 2005.

An original petition was filed on October 25, 2005, and was dismissed via the mailing of a decision on June 5, 2006. Petitioner had asserted that the non-final Office action had not been received, and the decision on the original petition indicated that it appeared that Petitioner had provided the Office with an incorrect correspondence address.

A renewed petition was filed on July 31, 2006, which was dismissed via the mailing of a decision on August 8, 2007, as the submission had not been executed.

With this second renewed petition, Petitioner has submitted what appears to be a substitute specification, drawings, and an abstract, although it does not appear that an amendment was submitted, directing the entry of these papers.

With this second renewed petition, it does not appear that Petitioner has submitted any arguments, evidence, or commentary addressing the merits of the dismissal of the original petition.

For this reason, the petition under 37 C.F.R. § 1.181(a) is **DISMISSED.**

It appears that Petitioner may be intentionally delaying the prosecution of this application. Petitioner is reminded that a finding of intentional delay constitutes an absolute bar to revival.

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 "Third Renewed Petition Under 37 C.F.R. § 1.181 *and/or §§ 1.137(a) and/or (b)*."** This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, since it does not appear that Petitioner will be able to establish non-receipt of the non-final Office action, Petitioner may wish to **strongly** consider filing a petition under 37 C.F.R. §§ 1.137(a) and/or (b).

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. § 1.181(a) 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. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. § 1.181(a)," and should only address the deficiencies noted in this decision.

Thereafter, there will be no further reconsideration of this matter[1, 2].

1 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v.

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

2 If, on the third request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DEC 0 3 2007

OFFICE OF PETITIONS

Alphonse Duperron
1217 rue Bernard #28
Montreal QC H2V 1V7 CA CANADA

In re Application of	:	
Alphonse Du Perron	:	DECISION ON THIRD RENEWED
Application No. 10/718,296	:	PETITION PURSUANT TO
Filed: November 21, 2003	:	37 C.F.R. § 1.181(A)
Title: INSTANTANEOUS EVACUATION TUBE	:	

This is a decision on the third renewed petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on November 1, 2007. A duplicate of this petition was submitted on November 5, 2007.

The petition is **DENIED**[1].

The prior decisions that refused to withdraw the holding of abandonment pursuant to 37 C.F.R. § 1.181(a) have been reconsidered. Pursuant to the discussion below, the holding of abandonment will not be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 9, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 10, 2005. A notice of abandonment was mailed on September 23, 2005.

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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. No further reconsideration of this matter will be given.

An original petition was filed on October 25, 2005, and was dismissed via the mailing of a decision on June 5, 2006. Petitioner had asserted that the non-final Office action had not been received, and the decision on the original petition indicated that it appeared that Petitioner had provided the Office with an incorrect correspondence address. The decision set forth, in pertinent part:

> The electronic file record has been reviewed, and the non-final Office action was returned to the Office as undeliverable on April 20, 2005.
>
> It is noted that on September 17, 2004, a change of address was received from the applicant, containing this address:
>
> 6210 Boulevard St-Michel #2, MTL QC ~~H2E 2Y9~~
> H1Y2E7
>
> The change of address was entered and made of record, accordingly. The missing communication was addressed to:
>
> Alphonse Du Perron
> 6210 Boulevard St-Michel #2
> MTL, QC H1Y 2E7
> CANADA
>
> With the present submission, Petitioner has included a Change of Correspondence request, which has been entered and made of record. The request indicates that the address should be changed to 6210 Boulevard St-Michel #2, MTL QC H2E 2Y9 (emphasis added). Curiously, the return address, which is listed on this same Change of Correspondence request, contains the zip code H1Y 2E7.
>
> It appears that Petitioner is confused as to what his zip code is. Consequently, the Office mailed the non-final Office action to the improper address which was provided by Petitioner, and since this address was incorrect, the mailing was returned to the Office as undeliverable.
>
> Accordingly, Petitioner's assertion that the Office action was not received is insufficient to justify withdrawing the holding of abandonment, as the failure to receive the Office action occurred due to Petitioner's error.

A renewed petition was filed on July 31, 2006, which was dismissed via the mailing of a decision on August 8, 2007, as the submission had not been executed.

A second renewed petition was filed on September 4, 2007, and was dismissed via the mailing of a decision on September 21, 2007. The decision set forth, *in pertinent part*:

> With this second renewed petition, it does not appear that Petitioner has submitted any arguments, evidence, or commentary addressing the merits of the dismissal of the original petition.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

MPEP 711.03(c) states, *in pertinent part*:

> PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
>
> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three

> month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

With the decision on the original petition, it was set forth that the Office properly mailed the non-final Office action of March 9, 2005, to the address that appears in the Change of Correspondence Address request that was submitted by Applicant on September 17, 2004. However, this request contained an incorrect zip code. It follows that the communication was not received by Applicant, due to the fact that Applicant directed the Office to mail all future correspondence to an incorrect address.

With this second renewed petition, Petitioner has not addressed the merits of why this incorrect zip code was placed on the Change of Correspondence Address request, or why the abandonment, which occurred as a direct consequence of Applicant's filing error, should be withdrawn. With this second renewed petition, Petitioner has merely set forth that the failure to receive the non-final Office action is

> surprising because I did receive before some mail from the Office, for example "The confirmation of my Foreign Application" mailed by the Office on September 29, 2004…it does mean that you had the right address in your file.

With this second renewed petition, the fact remains that the reason that Applicant did not receive the Office action is because he placed the wrong zip code on the Change of Correspondence Address request. As such, he informed the Office

that all future correspondence should be sent to an incorrect address.

Conclusion

The prior decisions, which refused to withdraw the holding of abandonment, have been reconsidered. For the above stated reasons, the holding of abandonment will not be withdrawn.

A review of the petitions that Petitioner has submitted suggests that Petitioner is unfamiliar with petitions procedure. While an inventor may prepare and submit petitions, lack of skill in this field usually acts as a liability. Petitioner is advised to secure the services of a registered patent attorney or agent to prepare any subsequent petition(s). The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Petitioner may wish to consider filing a petition under 37 C.F.R. §§ 1.137(a) and/or (b). Petitioner may download information about these petitions here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c. No assurance can be made that any remedy will be forthcoming.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Charles Pearson
Director
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

October 11, 2006

Patent No. : 7,090,641 B2
Ser. No. : 10/718,333
Inventor(s) : Elena Biagi, et al.
Issued : August 15, 2006
Title : **ULTRASOUND IMAGE FOCUSING METHOD AND RELATIVE ULTRASOUND SYSTEM**
Docket No. : **71212**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 111 or (703) 308-8309

MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH NY 10510-9227

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 25 2006

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of :
Lawrence Kates :
Application No.: 10/718,374 : ON PETITION
Filed: November 198, 2003 :
Attorney Docket No: P1553 :

This is in response to the petition under 37 CFR 1.137(b) filed May 25, 2006.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed November 1, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was filed on May 1, 2006, with a request for an extension of time within the third month. An Advisory Action mailed May 12, 2006 advised petitioner advised that the response of May 1, 2006, would not be entered because it raised new issues. A Notice of Abandonment was mailed on May 17, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Item (1) above has not been satisfied because of the failure to file a proper reply to the final Office action. The petition states that the response to the final Office action was filed previously on May 1, 2006. The response filed May 1, 2006, was considered previously and the examiner determined that the response filed May 1, 2006, will not be entered. Unless the response filed May 1, 2006, is accompanied by a Request for Continued Examination and the appropriate fee, the response filed May 1, 2006, will not satisfy the reply requirement of 37 CFR 1.137(b). The petition is dismissed, accordingly. The renewed petition must be accompanied by a proper response to the final Office action before the petition will be considered grantable.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON &
BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of

Lawrence Kates :

Application No. 10/718,374 : DECISION ON PETITION

Filed: November 21, 2003 :

Attorney Docket No. P1553

This is a decision on the renewed petition under 37 CFR 1.137(b), filed, August 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed November1, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was filed on May 1, 2006, with a request for an extension of time within the third month. An Advisory Action mailed May 12, 2006, advised petitioner advised that the response of May 1, 2006, would not be entered because it raised new issues. A Notice of Abandonment was mailed on May 17, 2006. A petition under 37 CFR 1.137(b) was filed on May 25, 2006, and dismissed on July 26, 2006.

The Request for Continued Examination filed August 1, 2006, is noted and made of record.

The fee for the instant petition was charged twice. The amount of $750.00 will be refunded, in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

COPY MAILED

OCT 2 4 2007

OFFICE OF PETITIONS

In re Application of
Dean L. Engelhardt, et. al.
Application No. 10/718,391
Filed: November 19, 2003
Attorney Docket No. Enz-52(C2)

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition. The delay in responding is regretted.

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.

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 of Cheryl H. Agris appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to

represent the particular party in whose behalf 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.

Since all of the above requirements have been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1634, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/718,391	11/19/2003	1634	385	Enz-52(C2)	13	2

CONFIRMATION NO. 9721

28171
ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

CORRECTED FILING RECEIPT

OC000000026275807

Date Mailed: 10/12/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Dean L. Engelhardt, New York, NY;
Jannis G. Stavrianopoulos, Bay Shore, NY;
Elazar Rabbani, New York, NY;
James J. Donegan, Long Beach, NY;

Assignment For Published Patent Application

Enzo Diagnostics, Inc., New York, NY

Power of Attorney:

Ronald Fedus–32567

Domestic Priority data as claimed by applicant

This application is a CON of 10/260,031 06/06/2003 ABN
which is a CON of 09/302,817 04/16/1999 ABN
which is a DIV of 08/182,621 01/13/1994 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 08/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/718,391

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

In vitro processes for producing multiple copies of primer sequence-free specific nucleic acid

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 02, 2006

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/718394 Patent No.: 6,996,160 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Chris N. [signature] — **SPE**

2611 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

MAILED

DEC 01 2006

Technology Center 2100

In re Application of: Aura YANAVI
Application No. 10/718,400
Filed: 20 November 2003
For: METHODS AND SYSTEMS FOR PREDICTING SOFTWARE DEFECTS IN AN UPCOMING SOFTWARE RELEASE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 20 November 2003, to make special the captioned application under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination. The delay in responding to the instant petition is regretted.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In this case, the petition fails to properly discuss the claimed subject matter in accordance with the section (e) requirements.

In the petition filed 20 November 2003, with respect to section (e) above and contrary to Petitioner's remarks regarding claim language that defines over the references provided, the phrase "previous" is not found in the independent claims 1, 11 and 21 of the instant application. The term "baseline" appears in each independent claim identified. The term "baseline" software release may or may not encompass or include a "previous" software release. Therefore, Petitioner's arguments regarding patentability with respect to claims 1, 11 and 21 are more specific that the claimed limitations present. The petition must properly address **each of the independent claims in the Application** with respect to the prior art in order to satisfy section (e) supra.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSI PHARMACEUTICALS, INC.
58 SOUTH SERVICE ROAD
MELVILLE, NY 11747

COPY MAILED

OCT 18 2005

OFFICE OF PETITIONS

In re Application of :
Arlindo L. Castelhano et al. :
Application No. 10/718,411 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No.: 60390-IB/JPW/GJG/JBC

This is a decision on the petition filed September 29, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 17, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 18, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 1616 for appropriate action on the amendment filed September 29, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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DNW 01-05

MICHAEL JAMES CAMERON
10336 KEY LANTERN DR
NEWPORT RICHEY FL 34654

COPY MAILED

JAN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Cameron et al.	:	
Application No. 10/718,413	:	DECISION GRANTING PETITION
Filed: 20 November, 2003	:	
For: Tensioned Measured Fishing	:	
Line Bite Detector Alarm	:	

This is a decision on the petition, filed on 13 October, 2004, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 3 March, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 13 October, 2004. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, showing the projected publication date of 20 January, 2005, was mailed on 14 October, 2004.

This decision is being forwarded to Technology Center Art Unit 3643 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J. Henry Muetterties
7796 South Datura Street
Littleton, CO 80120

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JUL 2 8 2006

OFFICE OF PETITIONS

In re Application of :
David Duncan et al. :
Application No. 10/718,417 : DECISION ON PETITION
Filed: November 20, 2003 : TO WITHDRAW
Attorney Docket No. e20031101 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 9, 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, **no longer representing client**, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: encryptX Corporation
Attn: David Duncan
7420 E. Dry Creek Parkway
Longmont, CO 80503

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

In re Application of :
Jay Sinnett :
Application No. 10/718,433 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. MIC-47 (P50-0130)

This is a decision on the petition, filed August 16, 2005 which is being treated as a petition, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

E. Martin Remick
Michelin North America, Inc.
Intellectual Property Department
P.O. Box 2026
Greenville, SC 29602

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www.uspto.gov

JoAnne M. Dension
DENISON & ASSOCS., PC
212 W. Washington Blvd., Suite 2004
Chicago IL 60606

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JAN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
CAROLYN BATTS-GOWINS :
Application No. 10/718,437 : DECISION ON PETITION
Filed: 11/20/2003 :
Title: PORTABLE AC POWER SUPPLY :
WITH MULTIPLE USES :

This is a decision on the petition, filed December 12, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application. The petition was recently received in the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

On May 5, 2005, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on August 6, 2005. A Notice of Abandonment was mailed on November 29, 2005.

In the petition, the practitioner asserted that she did not receive the nonfinal Office action because the USPTO mailed the Office action to an incorrect correspondence address. The practitioner stated that on October 12, 2004, she submitted a change of correspondence; however, the USPTO did not correctly enter the address in the record.

A review of the record indicates that the Office incorrectly entered the change of correspondence address in the record. Consequently, the nonfinal Office action was mailed to the wrong address. Therefore, the practitioner established that she did not receive the nonfinal Office action of May 5, 2005.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn and the application will be restored to pending status.

The Office has corrected the correspondence address and made it of record. Additionally, the Office acknowledges the reply submitted on December 12, 2006, with the petition.

This matter is being forwarded to Technology Center AU 2838 for action on the reply filed on December 12, 2006.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/26/2010

Applicant	: Sandeep Bhatia	: DECISION ON REQUEST FOR
Patent Number	: 7657809	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/718,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **295** 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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FRANCIS L. CONTE
6 PURITAN AVENUE
SWAMPSCOTT, MA 01907

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OFFICE OF PETITIONS

In re Application of :
Ching-Pang Lee :
Application No. 10/718,462 :
Filed: November 20, 2003 :
Attorney Docket No. GE132659 :

ON PETITION

This is a decision on the petition under 37 CFR 313, 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 February 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3745 for processing of the request for continued examination under 37 CFR 1.114.

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 : 7/20/2005

TO SPE OF : ART UNIT 2100(2125)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,839,605

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Claim dependency in cofc okay?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

L. P. P.
SPE

2125
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 13 2005

WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050

In re application of
Nathaniel E. David
Application No. 10/718,499 : **DECISION ON REQUEST**
Filed: November 19, 2003 : **FOR WITHDRAWAL OF**
For: BUSINESS METHODS FOR COMMERCIALIZING ANTIBIOTICS : **ATTORNEY**

This is a decision on the request filed on May 09, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks a reason for the withdrawal under condition A) above.

As to condition A), the attorneys listed in the request (Customer Number 021971) do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. The original Power of Attorney appointed several attorneys. Of these attorneys, Kenta Suzue, George Willman, Julie Holloway, Kevin Sin, and Michael Panepucci are not associated with Customer No. 021971. The reference to a customer number appears to not include all the attorneys of record. If less than all the attorneys wish to withdraw and a portion of the originally listed attorneys wish to retain power, any renewed request must so state, otherwise the person signing must be signing on behalf of all the attorneys of record.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 05/31/05

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THEODORE P. LOPEZ
MacPHERON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Jishnu Bhattacharjee et al	:	
Application No. 10/718,501	:	DECISION GRANTING PETITION
Filed: November 19, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M-15260 US	:	

This is a decision on the petition, filed January 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-06

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/718508 Patent No.: RE39330

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.

Can CofC be approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE

2615
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Seeman, Philip	:	DECISION ON PETITION
Application No. 10/718,517	:	TO MAKE SPECIAL
Filed: November 24, 2003	:	37 CFR1.102(D)
Attorney Docket No. 13459-3	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on March 23, 2004, to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

> (A) That small entity status has been established or include a statement establishing small entity status;
>
> (B) That the subject of the patent application is a major asset of the small entity; and
>
> (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

To be granted special status, the application must be related to the field of Biotechnology.

As Chapter 2400 of the Manual of Patent Examining Procedure explains, inventions relating to biotechnology are directed towards biological materials, nucleotide sequences and/or amino acid sequences. See MPEP 2401. MPEP 2403 and 37 CFR 1.801 further explain and define biological materials to include "material that is capable of self-replication either directly or indirectly. Representative examples include bacteria, fungi including yeast, algae, protozoa, eukaryotic cells, cell lines, hybridomas, plasmids, viruses, plant tissue cells, lichens and seeds. Viruses, vectors, cell organelles and other non-living material existing in and reproducible from a living cell" are also listed. Based on this understanding, the subject matter of the present invention, a method for treating aspects of alcoholism, addictions and psychoses, does not fall within the intended purview of applications relating to biotechnology.

Further, the instant petition fails to meet the requirements set forth above for special status because it also lacks (B). Petitioner fails to discuss whether or not the application is a major asset of the small entity.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3764 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 060705

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington DC 20037

JUN 27 2005

In re Application of:	:	
Manchanda *et al.*	:	
Serial No.: 10/718,536	:	DECISION ON REQUEST TO WITHDRAW
Filed: 24 November 2003	:	FROM RECORD
Attorney Docket No.: **GREENE 32-18**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 15, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Thomas J. D'Amico, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Kyshon Rivers, at the below 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

cc: Kyshon Rivers
4 Connell Drive
Berkely Heights, NJ 07922

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APR 20 2007

Yuri Gruzdkov
Mendelsohn & Associates, P.C.
1500 John F. Kennedy Blvd., Suite 405
Philadelphia, Pennsylvania 19102

In re Application of Green et al. :
Application no. 10/718,536 : DECISION ON PETITION
Filed: November 24, 2003 :
Attorney Docket No. A2550.0112/P113 A :

This is a decision on the petition filed under 37 C.F.R. §1.181 on December 6, 2006, to invoke the supervisory authority of the Director of the USPTO to review the finality of the office action set forth August 8, 2006. The petition is before the Director of Technology Center 2800 for review.

The petition is **MOOT** to the extent indicated below.

The Petitioner submitted a "conditional" request for continued examination (RCE) on December 6, 2006 along with the aforementioned petition, however 37 CFR § 1.114 does not support "conditional" requests for continued examination. The request was entered and a non-final office action was mailed February 8, 2007 thus making the petition to remove the finality moot.

Sharon A. Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components