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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Fujii et al.	:	
Application No. 10/718,543	:	ON APPLICATION FOR
Filed: November 24, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 086142-0600	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed September 9, 2008. Applicant requests that the determination of patent term adjustment be corrected from two hundred (200) days three hundred twenty-one (321) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years (3 years and 4 days) to issue this patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on October 31, 2007.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of mailing of the notice of allowance, the application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time

of the mailing of the notice of allowance is three hundred seventeen (317) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On August 8, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 200 days. On September 9, 2008, applicant timely submitted the instant application for patent term adjustment[1]. Applicant disputes the reduction of 145 days associated with their delay in filing a reply in compliance with 1.113(c) to the final Office action mailed March 8, 2007. Applicant states that this period should have been calculated as 28 days based on their filing of a Notice of Appeal on July 6, 2007, and not as 145 days based on their filing of a request for continued examination (RCE) on October 31, 2007.

The record supports a conclusion that this application is not subject to a terminal disclaimer.

Applicant's arguments have been considered and found persuasive. A review of the record reveals that the Notice of Appeal was re-submitted on September 5, 2007, with a date-stamped postcard evidencing its original filing in the Office on July 6, 2007. As such, with respect to the final Office action mailed March 8, 2007, the period of applicant delay within the meaning of 37 CFR 1.704(b) is properly calculated using the date of filing of the notice of appeal, July 6, 2007. July 6, 2007 is three months and 28 days after March 8, 2007. The period of reduction of 145 days is being removed and the period of reduction of 28 days is being entered.

It is further noted that the filing of the request for continued examination (RCE) on October 31, 2007 does not constitute applicant delay. (As previously stated, its filing does cut off the period for calculating the over 3 year Office delay).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 317 days (345 days of Office delay reduced by 28 days of applicant delay).

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[1] PALM records indicate that the issue fee was also paid on September 9, 2008.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Saturday
Date: 2/14/2009

PALM INTRANET

Time: 21:06:16

PTA Calculations for Application: 10/718543			
Application Filing Date:	11/24/2003	PTO Delay (PTO):	345
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	145
Post-Issue Petitions:	0	Total PTA (days):	317
PTO Delay Adjustment:	117		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	02/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
69	02/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	145		
60	08/08/2008	MAIL NOTICE OF ALLOWANCE	8		54
59	08/06/2008	ISSUE REVISION COMPLETED			
58	08/06/2008	DOCUMENT VERIFICATION			
57	08/06/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	08/04/2008	NOTICE OF ALLOWABILITY			
55	05/21/2008	DATE FORWARDED TO EXAMINER			
54	03/31/2008	RESPONSE AFTER NON-FINAL ACTION			
53	01/08/2008	MAIL NON-FINAL REJECTION			
52	01/04/2008	NON-FINAL REJECTION			
51	11/14/2007	MISCELLANEOUS INCOMING LETTER			
50	11/08/2007	DATE FORWARDED TO EXAMINER			
49	10/31/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	11/08/2007	DATE FORWARDED TO EXAMINER			
47	10/31/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		145	36
46	11/08/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	11/06/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	09/04/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
41	09/05/2007	MISCELLANEOUS INCOMING LETTER			
40	06/25/2007	MAIL ADVISORY ACTION (PTOL - 303)			

39	06/21/2007	ADVISORY ACTION (PTOL-303)			
38	06/19/2007	DATE FORWARDED TO EXAMINER			
37	06/07/2007	AMENDMENT AFTER FINAL REJECTION			
36	03/08/2007	MAIL FINAL REJECTION (PTOL - 326)			
35	03/05/2007	FINAL REJECTION			
34	11/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	12/30/2006	DATE FORWARDED TO EXAMINER			
32	12/11/2006	RESPONSE AFTER NON-FINAL ACTION			
31	11/21/2006	REFERENCE CAPTURE ON IDS			
30.7	11/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	11/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	09/11/2006	MAIL NON-FINAL REJECTION			
28	09/05/2006	NON-FINAL REJECTION			
27	06/30/2006	DATE FORWARDED TO EXAMINER			
26	06/22/2006	RESPONSE AFTER NON-FINAL ACTION			
25	06/22/2006	INCOMING LETTER PERTAINING TO THE DRAWINGS			
24	03/22/2006	MAIL NON-FINAL REJECTION			
23	03/20/2006	NON-FINAL REJECTION			
22	06/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	11/24/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	02/03/2006	DATE FORWARDED TO EXAMINER			
19	01/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
18	12/27/2005	MAIL RESTRICTION REQUIREMENT	337		-1
17	12/22/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
16	10/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	09/10/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	11/24/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	09/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	06/14/2004	REFERENCE CAPTURE ON IDS			
11.7	06/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

11	06/14/2004	FILED			
10	08/25/2004	REFERENCE CAPTURE ON IDS			
9.7	11/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	02/19/2004	APPLICATION RETURN FROM OIPE			
7	02/19/2004	APPLICATION RETURN TO OIPE			
6	02/19/2004	APPLICATION DISPATCHED FROM OIPE			
5	02/19/2004	APPLICATION IS NOW COMPLETE			
4	02/05/2004	CLEARED BY OIPE CSR			
3	02/05/2004	CASE CLASSIFIED BY OIPE			
2	12/24/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/24/2003	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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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,537,242	:	DECISION ON REQUEST
Fujii et al.	:	FOR
Issue Date: May 26, 2009	:	RECONSIDERATION OF
Application No. 10/718,543	:	PATENT TERM ADJUSTMENT
Filed: November 24, 2003	:	and
Atty Docket No. 086142-0600	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 24, 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 **seven hundred ninety-five (795)** days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **seven hundred ninety-four (794)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 25, 2006 and ends on October 30, 2007, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 340 not 341 days. Considering that 4 days were already accorded for the "B" delay at issuance, the patent term adjustment is now increased by 336 days to 795 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 Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on September 9, 2008. 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 **seven hundred ninety-four (794)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,537,242 B2

DATED : **May 26, 2009** **DRAFT**

INVENTOR(S) : Fujii 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 458 days

Delete the phrase "by 458 days" and insert – by 794 days--

SPE: A. Awad

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/6/07

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/718,595 Patent No.: 7154475

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: Foreign priority claim is approved.

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE — **Art Unit** 2629

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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DEC 03 2008

In re Application of	:	
Ki Chul Cha, et al.	:	
Application No. 10/718,625	:	ON PETITION
Filed: November 23, 2003	:	
Attorney Docket No. 0465-1077P	:	

This is a decision in response to the petition, filed May 21, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment was included with the petition filed on May 21, 2008. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

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

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

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

The centralized facsimile number is **(571) 273-8300**.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/718,625	CHA ET AL.	
	Examiner	Art Unit	
	RITA R. PATEL	1792	

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

THE REPLY FILED 21 May 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 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: *1,3,14,15 and 20-25*.
   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: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the claims submitted 5/21/08 are exactly the same as the claims filed 5/4/07 which have been rejected in the Final Rejection filed 8/9/07. Thus, the claims in the 5/21/08 submission would be rejected for the same reasons as indicated in the office action mailed 8/9/07. Applicant's arguments are directed to the Crisp reference, more particularly Applicant argues that Crisp fails to teach supplying regenerative water to the washing machine for a specific time period corresponding to the hardness value. However as taught in the rejection filed 8/9/07, Crisp has a washing machine connected to a computer with a memory, that memory is known in the art to hold data and numerical look-up tables. The invention of Crisp is fully capable to be programmed with stored time period values corresponding to hardness values for use in the apparatus. Although Applicant argues that this is not an explicitly taught feature of Crisp, it is found that Crisp reads on the claimed invention since it is fully capable of performing these functions with the memory in its computer and it is an obvious feature in the art of computer controlled washing machines.

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

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OFFICE OF PETITIONS

In re Application of	:	
Yoshihiko Sugawara	:	
Application No. 10/718,670	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 01-520	:	

This is a decision on the petition filed November 13, 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 September 27, 2006, with the issue fee being due on or before December 27, 2006. Office records do not show that the issue fee in this case has 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 September 27, 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 3661.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE: C. Whitehead

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/9/06

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/718,678 Patent No.: 6994507

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: _____

Paul Whitehead — **SPE**

2813 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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2033 K STREET N.W.
SUITE 800
WASHINGON DC 20006-1021

In re Application of	:	
T%oshio Mikiya et al	:	
Application No. 10/718,684	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 2003_1695A	:	

This is a decision on the petition, filed February 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 22, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3753 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

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OFFICE OF PETITIONS

In re Patent No. 6,941,891
Issue Date: September 13, 2005
Application No. 10/718,705
Filed: November 24, 2003
For: Feed Metering Device

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 22, 2009.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 01-06

Paper No: __

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OFFICE OF PETITIONS

PENROSE LUCAS ALBRIGHT, ESQ.
MASON, MASON & ALBRIGHT
P.O. BOX 2246
ARLINGTON VA 22202-0246

In re Application of
Berg :
Application No. 10/718,706 :
Filing Date: 24 November, 2003
Attorney Docket No8553/212A :

This is a decision on the petition filed on 11 January, 2006, alleging 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.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Issue/Publication Fees Due mailed on 26 May, 2005, with reply due under a non-extendable deadline on or before 26 August, 2005;
- the instant application went abandoned after midnight 26 August, 2005;
- the Office mailed a Notice of Abandonment on 30 September, 2005;

- with the instant petition (with fee authorization), Petitioner submitted the required reply in the form of the Issue and Publication Fees and made the statement of 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).[1]

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

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

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

---

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

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

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

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

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

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

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a declaration/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 regulatory requirements.

CONCLUSION

The instant petition 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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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

In re Patent No. 7,051,674	:	
Issue Date: May 30, 2006	:	
Application No. 10/718,706	:	NOTICE
Filed: November 23, 2003	:	
Attorney Docket No. 8553/212A	:	

This is a decision on the petition under 37 CFR 1.28, submitted April 14, 2009, to accept and record a maintenance fee for the above-identified patent.

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.

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

The patent file is being forwarded to Files Repository.

/ALESIA M. BROWN/

Alesia M. Brown
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/718,706	11/24/2003	Karel Van den Berg	8553/212A

CONFIRMATION NO. 9947

POWER OF ATTORNEY NOTICE

Penrose Lucas Albright, Esq.
MASON, MASON & ALBRIGHT
P.O. Box 2246
Arlington, VA 22202-0246

OC000000040334387

Date Mailed: 03/01/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/14/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/ambrown/

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

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HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Kaipa, et al.	:	
Application No. 10/718,722	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. SVL920030081	:	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 15, 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 Kevin A. Bulford on behalf of himself.

All attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed June 02, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,019,132	:	
Issued: March 28, 2006	:	
Application No. 10/718,734	:	ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. DE-1539	:	

This is a decision on the petition, filed April 24, 2006 and supplemented on December 11, 2006 and March 12, 2007, 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) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Techno Mart Co, Ltd.".

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.

The processing fee of $130.00 will be charged to deposit account no. 50-3814.

---

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

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

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

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

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

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK, NY 10020-1182

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OFFICE OF PETITIONS

In re Patent No. 7,019,132 B2	:	
Issue Date: April 24, 2006	:	
Application No. 10/718,734	:	ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. DE-1539	:	

This is a decision on the reconsideration petition filed May 9, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

United States
Patent And
Trademark Office

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

PETITION DECISION

09/08/04

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/718750 received on 05/25/04 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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P.O. Box 1450
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RICK D. NYDEGGER
WORKMAN NYDEGGER & SEELEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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JAN 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeff Wagner et al	:	
Application No. 10/718,755	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. 7678.810	:	

This is a decision on the petition filed, August 24, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 24, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 25, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on August 24, 2006.

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

This matters is being referred to Technology Center AU 3732 for further processing.

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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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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OFFICE OF PETITIONS

In re Application of	:	
Ulrich Abeler	:	
Application No. 10/718,778	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No.	:	
WTS-8374	:	

This is a decision on the petition under 37 CFR 1.55(c), filed September 26, 2005, for entry of priority papers submitted after the date the issue fee was paid. The delay in treating this petition is regretted.

The petition is granted.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d).

The priority papers are accepted as timely filed and have been placed of record in the file.

No correction of the patent is necessary.

Any questions concerning this decision should be directed to Derek L. Woods at (571) 272-3232.

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

10/718,779

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/7/07

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction on Patent No.: 7134874

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:

Cris Rodriguez
SPE

3732
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOORE & VAN ALLEN
P.O. BOX 13706
RESEARCH TRIANGLE PARK NC 27709

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
David P. Engvall et al	:	
Application No. 10/718,782	:	
Filed: November 21, 2003	:	
Attorney Docket No. 5658/986	:	

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

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 3723 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Penrose Lucas Albright, Esq.
MASON, MASON & ALBRIGHT
P.O. Box 2246
Arlington, VA 22202-0246

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Karel Van Den Berg :
Application No. 10/718,791 :
Filed: November 24, 2003 :
Attorney Docket No. 8553/212B :

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2005, to revive the above-identified application.

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 November 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight February 9, 2005.

In response, petitioner submitted with the instant petition $750 for the petition to revive fee, $700 for the issue fee and $300 for the publication fee.

The petition is **GRANTED**.

The application file is being referred to the Office of Publications for further processing into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PENROSE LUCAS ALBRIGHT, ESQ.
MASON, MASON & ALBRIGHT
P.O. BOX 2246
ARLINGTON, VA 22202-0246

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OFFICE OF PETITIONS

In re Patent No. **6,907,843** :
Issue Date: June 21, 2005 :
Application No. 10/718,791 : NOTICE UNDER 37 CFR 1.28(C)
Filed: June 28, 2000 :
Attorney Docket No. **8553/212B** :

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 **DISMISSED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record.

An unsigned paper or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where a petition (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 application.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that (person signing petition) was ever given a power of attorney to act on behalf of the inventor, **or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)**[1], the petition can not be considered at this time.

[1]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)

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

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

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

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

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

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **MAURICE CORTEN**
HOWREY, LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004

---

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

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MAY 24 2010

OFFICE OF PETITIONS

In re Patent No. **6,907,843** :
Issue Date: June 21, 2005 :
Application No. 10/718,791 : NOTICE UNDER 1.28
Filed: November 24, 2003 :
Attorney Docket No. **8553/212B** :

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PENROSE LUCAS ALBRIGHT, ESQ.
MASON MANSON & ALBRIGHT
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ARLINGTON, VA 22202-0246

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Karel VAN DEN BERG
Application No. 10/718,791
Filed: November 24, 2003
Attorney Docket No. **8553/212B**

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed February 26, 2010.

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.

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

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **HOWREY LLP – EAST**
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

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

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of :
STIENE, et al. :
Application No. 10/718,818 : DECISION ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. **LFS-5021** :

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 3, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 4, 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 $1500; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Since the $1020 extension of time fee submitted with the petition on November 14, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being referred to Technology Center Art Unit 3736 for consideration of the amendment and information disclosure statement filed November 14, 2006.

Sherry D. Brinkley
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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JUN 01 2010

OFFICE OF PETITIONS

In re Application of Chipchase :
Application No. 10/718,822 : On Application For
Filing Date: November 21, 2003 : Patent Term Adjustment
Attorney Docket No. 088245-1060 :

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705" filed January 13, 2010. Applicant submits the correct patent term adjustment to be indicated on the patent is one thousand four hundred twenty (1,420) days, not one thousand ninety-nine (1,099) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term a patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 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, an applicant 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, an applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months 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 regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

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BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

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OCT 09 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Namit Jain, et al. :
Application No.: 10/718,823 :
Filed: November 21, 2003 :
Attorney Docket No.: OI7035742001 :

This is a decision on the petition, filed October 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 11, 2007, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated May 8, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2166 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OCT 21 2009

OFFICE OF PETITIONS

Sandeep Jaggi
LSI Logic Corporation
Intellectual Property Law Dept.
1621 Barber Lane, M/S D-106
Milpitas CA 95035

In re Application of :
Ivanovic et al. :
Application No. 10/718,824 : DECISION ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 030928/2935P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed May 11, 2009. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 12, 2009. A Notice of Abandonment was mailed on September 3, 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 and publication fees of $1810, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Pursuant to petitioner's request, deposit account no. 50-1491 will be charged the $1510.00 issue fee.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to the Office of Data Management for further processing. .

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: William W. Cochran
2026 Caribou Drive, Suite 201
Fort Collins, CO 80525

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DAVID B. WALLER & ASSOCIATES
5677 OBERLIN DRIVE
SUITE 214
SAN DIEGO CA 92121

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AUG 15 2008

In re Application of	:	
Staley A. Sewtich, Jr., et al.	:	
Application No. 10/718,831	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. KEN.001.P	:	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 1, 2008.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: STANLEY A. SEWTICH
HRG, INC.
1780 KETTNER BLVD.
SUITE 110
SAN DIEGO, CA 92101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080306

DATE : March 06, 2008

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction on Patent No.: 6834714

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: /Cheryl J. Tyler/ Art Unit 3744

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NASHUA, NH 03061-3445

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OFFICE OF PETITIONS

In re Application of	:	
Frank W.Perrella	:	
Application No. 10/718,840	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. SHINE001-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed May 26, 2005[1], to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioners request that the application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The above-identified application is expressly abandoned, and the abandonment is hereby recognized.

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

The abandoned matter is being referred to Files Repository.

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

[1] A second Notice of Allowance and Fee(s) Due was mailed on May 26, 2005. For the purpose of processing, the petition will be treated as having been filed prior to the mailing of the second Notice of Allowance.

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OFFICE OF PETITIONS

ARTHUR G. YEAGER, P.A.
245-1 EAST ADAMS STREET
JACKSONVILLE FL 32202-3336

In re Application of
Eric S. Yan et al.
Application No. 10/718,844
Filed: November 21, 2003
Attorney Docket No. D-7515

DECISION GRANTING PETITION

This is a decision on the petition filed March 3, 2004, to establish prior receipt in the USPTO of items considered to be omitted, which is treated under 37 CFR 1.182.

The petition is **GRANTED**.

The application was filed on November 21, 2003. However, on February 20, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Items, "Notice", stating that the application had been accorded a filing date but that Page 4 of the specification (description and claims) appeared to have been omitted.

In response, on March 3, 2004, page 4 of the specification, the present petition, and a petition fee were filed. Petitioners argue that Page 4 was filed with the other application papers on November 21, 2003. In support, a copy of petitioners' postcard receipt was supplied March 3, 2004 with the instant petition. The postcard receipt shows an Office date stamp of November 21, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, 21 pages of specification. Petitioners request that the application, including Page 4 of the specification, be accorded a filing date of November 21, 2003.

A review of the record reveals that no Page 4 of the specification has been located among the application papers deposited on November 21, 2003. However, the evidence is convincing that the application papers deposited on November 21, 2003, included Page 4 of the specification. Therefore, the application, including Page 4 of the specification, is entitled to a filing date of November 21, 2003.

The "Notice" mailed on February 20, 2004, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to petitioner's deposit account, No. 02-0660 as requested. Additionally, a credit in the amount of $130.00 will also be made to petitioner's deposit account as an internal error was made charging a duplicate petition fee to that deposit account.

The application will be processed and examined using the copy of Page 4 supplied on March 3, 2004.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of November 21, 2003, using the application papers filed on that date, and the copy of Page 4 of the specification supplied on March 3, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Frishauf, Holtz, Goodman, & Chick, P.C.
220 Fifth Ave., 16th Floor
New York, New York 10001-7708

In re Application of
Nishi et al.
Application No. 10/718,858
Patent No. 6,964,976 B2
Filed: ApNovember 20, 2003
Attorney Docket No. 02697CIPD/HG

: DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT under (37 CFR 1.705(d)) " filed on December 01, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of issuance from avdetermination of 62 days to a determination of ninety-four (94) days.

Applicants application for PTA is **GRANTED.** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect this decision. The proper amount of PTA at the time of the issuance of the patent is **94** days. The Office will *sua sponte* issue a certificate of correction. The Office will further adjust the PAIR calculation to reflect this decision.

Applicants assert that the Office erred in the PTA calculation. The Office provided sixty-two days of administrative delay for the failure to initially act upon the application within 14 months of the filing date of the application. See 37 CFR 1.702(a)(1). Applicants agree with this determination. However, applicants disagree with the failure to provide an additional thirty-two (32) days for the failure to issue the application within four months of the payment of the issue fee under 37 CFR 1.702(a)(4).

A review of the file reflects that applicants' arguments are persuasive. The record reflects that the Office failed to issue the action within four months of the payment of the issue fee pursuant to 37 CFR 1.702(a)(4).[1] Accordingly, the Office errantly failed to grant applicants an additional 32 days of PTA. Overall the accurate determination at the time of the mailing of the issuance of the patent is ninety-four (32 + 62 =94) days.

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for a prompt issuance of a certificate of correction.

Any delays in the failure to issue this application within four months of the payment of the issue fee as required in 37 CFR 1.702(a)(4) will be reflected on the issue notification letter that is

[1]The Office notes the issue fee was paid on June 14, 2005 and the patent issue on November 15, 2005, a thirty-two day delay.

mailed to applicants approximately three weeks prior to issue date. Any delays by applicant for submissions by applicants that are reductions under 37 CFR 1.704(c)(10) will be reflected in the PTA determination that is provided to applicant in the issue notification letter.

The Office has assessed the $200.00 fee. No additional fees are required in this deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

Kery A. Fries

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

cc: adjusted Pair calculation
DRAFT Cert. Of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,964,976 B2

DATED : November 15, 2005

INVENTOR(S) : Nishi 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 62days

Delete the phrase "by 62 days" and insert – by 94 days--

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DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO CA 94303-2248

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OFFICE OF PETITIONS

In re Application of	:	
Song et al.	:	
Application No. 10/718,867	:	DECISION ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. 351306-991110	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 27, 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 11, 2007. Accordingly, the application became abandoned on March 12, 2008. A Notice of Abandonment was mailed June 20, 2008.

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 (1).

Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/718,867	Applicant(s) SONG ET AL.	
	Examiner BEN C. WANG	Art Unit 2192	

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

THE REPLY FILED 27 January 2009 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 _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

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: *1-46 - Examiner maintains the 35 USC 103(a) rejections*.

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:

Applicant argued that neither Blaser nor Softricity describes "a privatized virtual registry created from an operation system registry system wherein the application software only accesses the privatized virtual registry" (cited on page 17, first non-full paragraph and second and third full paragraphs in the REMARKS)

Examiner's Response: Examiner disagrees. Softricity teaches that SystemGurad® creates a virtual Registry for each application. Registry settings created cannot be seen by other applications (e.g., Fig. of 'SoftGrid® Environment'; Sec. of 'SystemGuard® Capabilities', Sub-Sec. of 'Virtual Registry') (emphasis added)

Further, Applicant argued that Blaser does not describe "a privatized virtual file resource created from an operating system file system wherein the application software only accesses the privatized virtual file resource" (cited on page 17, first non-full paragraph in the REMARKS)

Examiner's Response: Examiner disagrees. Softricity discloses that SystemGurad® also handles requests made by applications to files in specific directories by redirecting the requests. For example, if an application looks for a file located in a specific directory on the local C drive, SystemGurad® can redirect any requests to that directory inside of its virtual file system (e.g., Fig. of 'SoftGrid® Environment'; Sec. of 'SystemGuard® Capabilities', Sub-Sec. of 'Virtual File System') (emphasis added)

The prior art rejection is maintained by Examiner.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Ben C Wang/
Examiner, Art Unit 2192

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DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO CA 94303-2248

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Song et al. :
Application No. 10/718,867 : DECISION ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 351306-991110 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2009, 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 December 11, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 12, 2008. A Notice of Abandonment was mailed June 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 (previously paid on January 27, 2009); and (3) a proper statement of unintentional delay.

Petitioner has submitted an unnecessary duplicate petition fee of $810.00. Petitioner's deposit account will be refunded the $810.00 fee in due course.

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

The file is now being forwarded to Technology Center 2192 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN B. SALAI, ESQ.
HARTER, SECREST & EMERY LLP
1600 BAUSCH & LOMB PLACE
ROCHESTER, NY 14604-2171

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:
Donald A. Hoffend, Jr., et al	:
Application No. 10/718,871	: DECISION ON PETITION
Filed: November 21, 2003	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 85809.000022	:

This is a decision on the petition, filed August 10, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the express abandonment in favor of a continuing application is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\718871.wpd

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United States Patent and Trademark Office
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MILBANK, TWEED, HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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JUL 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary A. Hoberman	:	
Application No. 10/718885	:	ON PETITION
Filing Date: 11/21/2003	:	
Title of Invention:	:	
METHOD AND SYSTEM FOR DATA	:	
FILE PROCESSING	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 12, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is February 13, 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 (and the submission required by 37 CFR 1.114, filed December 2, 2008); (2) the petition fee; and (3) a proper statement of unintentional delay.

Regarding the oath/declaration filed with the present petition to add inventor Lestan D'Souza, because during the course pf prosecution it was determined that Lestan D'Souza is an inventor, Petitioner is directed to 37 CFR 1.48.

Finally, the address given on the petition differs from the address of record. Petitioner is reminded that this Office dual correspondence is not permitted.

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

This application is being referred to Technology Center AU 2193 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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OCT 18 2007

OFFICE OF PETITIONS

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

In re Application of	:	
John M. McBean et al	:	
Application No. 10/718,913	:	DECISION GRANTING PETITION
Filed: November 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1118/A04	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 16, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3772 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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Paper No.

Dana Andrew Alden
MacLean-Fogg Company
1000 Allanson Road
Mundelein, IL 60060

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Jakuszeski et al. :
Application No. 10/718,914 :
Filed: November 21, 2003 : ON PETITION
Attorney Docket No. :
09-9540-6520-0000-4 :

This is a decision on the Petition under 37 CFR 1.78(a)(3), filed May 3, 2004, to accept an unintentionally delayed claim under 35 U.S.C §§ 120 for the benefit of priority to prior filed Nonprovisional Application No. 09/933,312, filed August 20, 2001, and now U.S. Patent No. 6,749,386.

The petition is **granted**.

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 the expiration of the period specified in 37 CFR 1.78(a)(2), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

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

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed as unintentional; and

(3)the reference to the prior filed nonprovisional application, supplied in an application data sheet, or as an amendment in the first sentence of the specification following the title. *See* 35 USC 120 and 37 CFR 1.78(a)(2). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 21, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been

included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

This matter is being referred to Technology Center Art Unit 3677 for consideration by the examiner of applicant's entitlement to the claim of the benefit of priority under 35 U.S.C. §§ 120 to prior-filed Nonprovisional Application No. 09/933,312, filed August 20, 2001, and now U.S. Patent No. 6,749,386, and for consideration of the Amendment, filed May 3, 2004.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Charles A. Pearson
Director
Office of Petitions

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/12/10

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 10718939 Patent No.: 7599394

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Ricky Ngo/

_2464_____

SPE Art Unit

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Patrick Hosein	: DECISION ON REQUEST FOR
Patent Number	: 7599394	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/718,939	: 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 **1719** 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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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE,
SUITE 302
LATHAM, NY 12110

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OFFICE OF PETITIONS

In re Patent No. 7,041,049	:	
Issue Date: May 9, 2006	:	
Application No. 10/718,960	:	DECISION GRANTING PETITION
Filed: November 21, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. FIRS-3288	:	

This is a decision on the petition, filed March 17, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 12, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

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

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

This application matured into Patent No. 7,041,049 on May 9, 2006. Therefore, no further is required in this case.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Gregg Baeckler et al	:	
Application No. 10/718,968	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. 15114-093700US	:	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 28, 2006 and supplemented on April 7, 2006.

The petition is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Stephen C. Durant, along with all of the other attorneys associated with customer no. 47520, has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is **moot**.

All future communications from the Office will be directed to the below-listed address of record until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2193.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

TOWNSEND AND TOWNSEND AND CREW LLP/015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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David B. Raczkowski
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eight Floor
San Francisco, CA 94111-3834

MAILED

DEC 21 2007

TECHNOLOGY CENTER 2100

In re Application of:
Gregg Baeckler et al
Appl. No.: 10/718,968
Filed: November 21, 2003
For: Logic Cell Supporting Addition of Three Binary Words

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on petitions under 37 CFR § 1.59(b), filed on 02 July 2007, to expunge information submitted pursuant to MPEP § 724.05.

The petitions are **DISMISSED**.

Petitioner requests that the information submitted on 02 July 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 02 July 2007 considered to be "material." Once prosecution on the merits is closed, applicant may re-submit petitions to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

The identified documents are currently not available for public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591

/Gail Hayes/

Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Reece Nienstadt
3945 Connecticut Avenue, N.W.
Apt. 104
Washington DC 20008-2433

In re Application of)
Christopher Su-yan Own)
Application No. 10/718,972)
Filed: November 22, 2003)
For: **DIGITAL-TO-ANALOG AUDIO CONVERSION**)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on February 7, 2005.

A grantable request to withdraw, as attorney/agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of Record are withdrawn.

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

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:

Christopher S. Own
1307 Oak Avenue, 3W
Evanston, ILL 60201

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/718,979	11/21/2003	1712	1298	138303-1	8	23	7

CONFIRMATION NO. 2733

CORRECTED FILING RECEIPT

OC000000012525996

Frank A. Smith
GE Plastics
One Plastics Avenue
Pittsfield, MA 01201

Date Mailed: 05/04/2004

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

Applicant(s)

Katherine Glasgow, Evansville, IN;
Adam Zerda, Evansville, IN;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/19/2004

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

Title

Ionizing radiation stable polyarylestercarbonate compositions

Preliminary Class

525

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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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

Mail Date: 04/20/2010

Applicant	: Nova Spivack	: DECISION ON REQUEST FOR
Patent Number	: 7640267	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/719,002	: 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 **572** 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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Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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JUL 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Nobuaki HORT, et al.	:	
Application No. 10/719,006	:	DECISION ON PETITION
Filed: November 20, 2003	:	TO WITHDRAW
Attorney Docket No. ABJT-004CON5	:	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 28, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Michael Fuller
Knobbe Martens Olsen & Bear LLP
550 West C Street, Suite 1200
San Diego, CA 92101

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HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Jong-Deok Choi et al.	:	
Application No. 10/719,048	:	DECISION ON PETITION
Filed: November, 21, 2003	:	TO WITHDRAW
Attorney Docket No. Yor9-2003-0227	:	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 December 15, 2005.

The request is **APPROVED**.

A review of the file record indicates that Kevin A. Buford: (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, Kevin A. Buford has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request was signed by Kevin A. Buford attorney/agent on behalf of himself.

Kevin A. Buford has been withdrawn as attorney or agent; all other attorneys remain of record.

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

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272-3299.

Karen Creasy for

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN
P.O. BOX 10500
MCLEAN VA 22102

In re Application of	:	
Wouter Onno Pril et al	:	
Application No. 10/719,067	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 081468-0306604	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: James Chien-Chiung Chen	: DECISION ON REQUEST FOR
Patent Number	: 7650385	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/719,071	: 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 **1445** 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. 110104

STRATEGIC PATENT SERVICES INC.
1096 Trestle Glen
Oakland, CA 94610

JAN 6 2005

In re Application of:
Cavanaugh et al.
Serial No.: 10/719,078
Filed: November 21, 2003
Attorney Docket No.: **SPS-09**

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 October 5, 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 Gary Zalewski, 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 Tom Conneely, at the below address, until otherwise notified by applicant.

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

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

cc: Tom Conneely
Lighthouse Capital Partners
500 Drakes Landing Rd.
Greenbrea, CA 94904

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Ishman Law Firm P.C.
P.O BOX 1297
Holly Springs NC 27540-1297

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OFFICE OF PETITIONS

In re Application of	:	
James F. MCNULTY, Jr.	:	
Application No. 10/719,131	:	DECISION ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. **8170-04-09**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 29, 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 July 30, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within

the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b).

Here, in view of the inordinate delay (over 4 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 July 30, 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 Leonard Tachner was counsel of record at the time of abandonment, the attorney should explain why this application became abandoned while it was under counsel's control and what efforts the counsel 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), involved with this application at the time of abandonment. Statements are required from 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 4 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 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).

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.

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.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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
10/719,164	11/21/2003	1661	660	480927.00002	3	1	1

CONFIRMATION NO. 2344

CORRECTED FILING RECEIPT

OC000000017451628

26735
QUARLES & BRADY LLP
FIRSTAR PLAZA, ONE SOUTH PINCKNEY STREET
P.O BOX 2113 SUITE 600
MADISON, WI 53701-2113

Date Mailed: 11/14/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

William R. Graves, Ames, IA;
James A. Schrader, Boone, IA;

Power of Attorney: The patent practitioners associated with Customer Number **26735**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/719,164

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Seaside alder named 'September Sun"

Preliminary Class

PLT

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

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

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/719,168	11/21/2003	1645	2227	310307.00004	3	83	6

CONFIRMATION NO. 2342

CORRECTED FILING RECEIPT

OC000000012904995

26735
QUARLES & BRADY LLP
FIRSTAR PLAZA, ONE SOUTH PINCKNEY STREET
P.O BOX 2113 SUITE 600
MADISON, WI 53701-2113

Date Mailed: 06/08/2004

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)

Gary A. Dahl, Madison, WI;
Jerome J. Jendrisak, Madison, WI;
Agnes J. Radek, Madison, WI;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/428,013 11/21/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/20/2004

Projected Publication Date: 09/16/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods for using riboprimers for strand displacement replication of target sequences

Preliminary Class
435

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

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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
10/719,182	11/20/2003	2661	1000	MS1-1658US	4	28	4

CONFIRMATION NO. 3223

CORRECTED FILING RECEIPT

OC000000012686718

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

Date Mailed: 05/17/2004

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

Applicant(s)

Kamal Jain, Bellevue, WA;
Mohammad Mahdian, Cambridge, MA;
Mohammad R. Salavatipour, Kitchener, CANADA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/20/2004

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

Title

Packing steiner trees

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.

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NOT GRANTED

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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
10/719,192	11/21/2003	2631	942	5649-1185	10	20	5

CONFIRMATION NO. 2998

CORRECTED FILING RECEIPT

OC000000012961602

Mitchell S. Bigel
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

Date Mailed: 06/16/2004

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

Applicant(s)

Seung-Kwon Baek, Gyeonggi-do, KOREA, REPUBLIC OF;
Hoon-Soon Choi, Seoul, KOREA, REPUBLIC OF;
Ju-Yon Kim, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-0073659 11/25/2002

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

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fast fourier transform processors, methods and orthogonal frequency division multiplexing receivers including memory banks

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

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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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MAR 15 2007
OFFICE OF PETITIONS

In re Application of	:	
James Millis, et al.	:	
Application No. 10/719196	:	DECISION ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 3161-25-2	:	

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, October 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 application became abandoned on January 29, 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 $1500; and (3) an adequate statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1652 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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GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

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OCT 1 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Burch et al.	:	
Application No. 10/719,211	:	
Filed: November 21, 2003	:	
Attorney Docket No. P50383D2	:	

This is a decision on the petition filed August 11, 2004, to accord the above-identified application a filing date of November 21, 2003.

The petition is **dismissed**.

On November 21, 2003, the application was filed.

Petitioner filed:
(1) 3 pages of drawings,
(2) 3 pages of declaration,
(3) 1 page of transmittal letter,
(4) 6 pages of preliminary amendment,
(5) 1 page of abstract, and
(6) IDS and papers related to IDS.

On May 27, 2004, the Office of Initial Patent Examination mailed a Notice stating that a specification was not present and that a filing date had not been accorded and the filing date would be the date of receipt of a specification.

The first sheet of the Information Disclosure Statement lists many documents including WO 97/09042. The papers filed on November 21, 2003, included a copy of many of the documents listed including WO 97/09042.

Apparently, petitioner is alleging the Office should have treated WO 97/09042 as the application - specification, drawings, and claims.

If WO 97/09042 is used as the application, then the postcard receipt contradicts the facts alleged by petitioner. The postcard indicates 3 sheets of drawings were filed, while the file contains 4 sheets of drawings including 3 filed as part of the original "application" and one sheet filed as part of WO 97/09042. The Office also notes that the declaration fails to explicitly refer to WO 97/09042.

Petitioner has failed to prove the May 27, 2004 Notice was mailed in error and the $130 petition fee will be charged to petitioner's deposit account.

Since the copy of WO 97/09042 was filed on November 21, 2003, with the application papers, the papers may be used as the application *upon grant of a petition*. The petition will not be granted at this time because petitioner has failed to state which set of drawings the Office should

use as part of the official application. Should the Office use the 3 sheets of drawings with one Figure on each sheet or should the Office use the one sheet of drawing which is included as part of the application?

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

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

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

Any request for reconsideration must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not available.

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

The Office of Initial Patent Examination will be instructed that the petition was dismissed.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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King of Prussia, PA 19406-0939

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of :
Burch et al. :
Application No. 10/719,211 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. P50383D2 :

This is a decision on the petition filed August 11, 2004, to accord the above-identified application a filing date of November 21, 2003.

On November 21, 2003, the application was filed.

Petitioner filed:
(1) 3 pages of drawings,
(2) 3 pages of declaration,
(3) 1 page of transmittal letter,
(4) 6 pages of preliminary amendment,
(5) 1 page of abstract, and
(6) IDS and papers related to IDS.

Petitioner filed two copies of original PCT application, PCT/US96/14554, as published - WO 97/09042. One copy was intended to be the application. The other copy was intended to be part of the documents listed on the first sheet of the Information Disclosure Statement.

The Office did not recognize petitioner's desire to have WO 97/09042 serve as the application.

Since the copy of WO 97/09042 was filed on November 21, 2003, with the application papers, the papers may be used as the application.

In view of the above, the petition is **granted**.

The Office of Initial Patent Examination will process the application with a filing date of November 21, 2003, using 3 pages of drawings, 6 pages of preliminary amendment, and 1 page of abstract filed on November 21, 2003, and 11 pages of specification from WO 97/09042.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FEB 18 2005

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER &
KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MNH 55402

In re Application of	:	
Leonard Forbes	:	
Application No. 10/719,217	:	ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 303.620US2	:	

This is a decision on the petition, filed February 18, 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 1, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2824 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date :February 18, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Leonard Forbes
Application No. :10/719,217
Filed :November 20, 2003

The above-identified application has been assigned Patent No. 6,859,396 and an issue date of February 22, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 22, 2005:

> "All reference to Patent No. 6,859,396 to Leonard Forbes of Oregon for PROGRAMMABLE FUSE AND ANTIFUSE AND METHOD THEREFOR appearing in the Official Gazette of February 22, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM Corporation
INTELLECTUAL PROPERTY LAW DEPARTMENT
9000 SOUTH RITA ROAD
TUSCON, AZ 85744

Mail Date: 04/21/2010

Applicant	: James C. Chen	: DECISION ON REQUEST FOR
Patent Number	: 7613785	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/719,229	: 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 **1655** 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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United States Patent and Trademark Office
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IBM Corporation
INTELLECTUAL PROPERTY LAW DEPARTMENT
9000 SOUTH RITA ROAD
TUSCON, AZ 85744

Mail Date: 05/18/2010

Applicant : James C. Chen
Patent Number : 7613785
Issue Date : 11/03/2009
Application No : 10/719,229
Filed : 11/20/2003

: 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 **1715** 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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APR 19 2005

OFFICE OF PETITIONS

LEONARD & PROEHL, PROF. L.L.C.
3500 SOUTH FIRST AVENUE CIRCLE
SUITE 250
SIOUX FALLS, SD 57105

In re Application of	:
Raymond W. Smith	:
Application No. 10/719,247	: DECISION GRANTING PETITION
Filed: November 21, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 22-0303	:

This is a decision on the petition, filed December 6, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 28, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 28, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2834 for examination in due course.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Richard W. Goldstein
Goldstein Law Offices, P.C.
2071 Clove Road
Staten Island, NY 10304

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AUG 01 2005

OFFICE OF PETITIONS

In re Application of
Joseph D. Black
Application No.10/719,261
Filed: November 24, 2003

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application. The instant application became abandoned for failure to reply to the office action of June 17, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 18, 2004.

The petition is **GRANTED**.

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

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b) including (1) the reply (amendment/response); (2) the petition fee of $750.00 (for a small entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed June 17, 2004 is accepted as having been unintentionally delayed.

This matter is being referred to Technology Center Art Unit 1744 for appropriate action on the concurrently filed response.

Any questions concerning this matter may be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Karen Creasy for

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

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

In re Application of
Soung-Hoon Sim, et al
Application No. 10/719,265
Filed: November 21, 2003
Attorney Docket No. 5649-1151

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed April 5, 2004, requesting that the above-identified application be accorded a filing date of November 21, 2003, instead of the presently accorded date of November 24, 2003.

Petitioner alleges that the application was deposited in "Express Mail" service with the United States Postal Service (USPS), on November 21, 2003. In support, petitioners provide, *inter alia*, a copy of the Express Mail label, receipt No. EV353594349US. The same Express Mail receipt number was referred to in the original transmittal letter found in the application file. It is noted that while the "date in" on the copy of the Express Mail label is blank, the label includes an official USPS notation in the form of an USPS receipt stamp dated November 21, 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 US Postal Service on November 21, 2003.

The petition is granted.

The application is being referred to Initial Patent Examination Division for correction of the filing date to **November 21, 2003** and for issuance of a corrected filing receipt.

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 Assistant Commissioner
for Patent Policy and Projects

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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
10/719,270	11/21/2003	2661	1320	9400-49	33	41	5

CONFIRMATION NO. 2793

CORRECTED FILING RECEIPT

OC000000012703796

39072
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NC 27627

Date Mailed: 05/18/2004

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

Applicant(s)

Maria Adamczyk, Alpharetta, GA;
Thomas Arnold Anschutz, Conyers, GA;
Edgar Vaughan Shrum JR., Smyrna, GA;
Steven Allan Wright, Roswell, GA;
Li Zhang, Alpharetta, GA;

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

Methods, computer program products, and systems for managing quality of service in a

communication network for applications

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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Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

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MAY 3 1 2006

Technology Center 2100

In re Application of:
Akira FUJIBAYAHSI
Application No. 10/719,286
Filed: November 20,2003
For: METHOD AND APPARATUS FOR VOLUME REPLICATION MANAGEMENT AT PLANNED AND UNPLANNED LINK DOWN

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 04 October 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 04 October 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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Date Mailed : 05/07/07

Patent No. : 7172765 B2
Inventor : CHU, BENJAMIN
Patent Issued : 02/06/07
Docket No. : 178-298 DIV II

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.

Inspection of the file of the application for the patent reveals that in Column 1, line 5 are printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

Cbn/Lmn

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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Cookson, et al.	:	
Application No. 10/719,308	:	DECISION ON
Filed: November 20, 2003	:	PETITION
Attorney Docket No. 3053-074	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 13, 2009.

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

The above application became abandoned for failure to timely submit corrected drawings as required by the Notice of Allowability mailed on August 29, 2008. This Notice set a statutory period for reply of three months to submit corrected drawings. No corrected drawings having been received, the application became abandoned on November 30, 2008.

With the instant petition, applicants paid the petition fee, submitted corrected drawings, and made the proper statement of unintentional delay.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of CHIORINI et al. Application No. 10/719,311 Filed: 11/20/2003 Attorney Docket No. 14014.0252U3	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 21, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Petitioner did not submit a timely and proper request for an extension of time for response pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is June 22, 2008.

In response to the final Office action, petitioner filed an amendment on June 19, 2008. The Examiner reviewed the amendment and determined that the amendment did not place the application in condition for allowance. The Examiner issued an Advisory Action on September 5, 2008. On September 29, 2008, petitioner filed the present petition.

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

The Office notes that 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). As petitioner submitted the $1,050.00extension of time fee on September 29, 2008, after the maximum extendable period for reply, the fee is unacceptable. The Office will refund the $1,050.00 fee.

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

This application is being referred to Technology Center AU 1633 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,321	11/21/2003	Dennis Osamu Hirotsu	AA551C	3072

27752 7590 05/12/2009
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER
CRAIG, PAULA L

ART UNIT	PAPER NUMBER
3761	

MAIL DATE	DELIVERY MODE
05/12/2009	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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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of:
HIROTSU, DENNIS OSAMU
Serial No.: 10/719,321
Filed: Nov. 21, 2003
Docket: AA551C
Title: DISPOSABLE ABSORBENT ARTICLES CONTAINED IN PACKAGE HAVING WINDOW

DECISION ON PETITION
under 37 CFR § 1.181

This is a decision on the petition filed on September 23, 2008 filed under 37 CFR § 1.183 seeking to have the rejections in the Examiner's Answer designated as new grounds of rejection.

The petition is being considered pursuant to 37 CFR § 1.181, rather than under 37 CFR § 1.183, and no fee is required.

The petition is GRANTED.

The following relevant facts show that:

1) A final rejection was mailed on Sep. 7, 2007 rejecting claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuske (6,318,555) in view of Lash (5,897,542) and further in view of Brisebois (6,454,095).
2) In response to the final rejection and the advisory action, the appellant filed an appeal brief on May 7, 2008 to appeal the finally rejected claims.
3) On July 23, 2008, the examiner issued an examiner's answer. On page 11 of the Paragraph 10 of "Response to Arguments", the examiner essentially repeated the final rejection but added a statement on page 11 to address the packaging of different articles types together and the placing of colors and other indication means on article wrappers are well known in the art. In particular, the examiner cited three prior art references, namely, US patents to Sorkin, Miller and Nelson. The examiner cited these three references to support and show the common uses of colored items packaged together in a package with window opening.

4) On Jul. 2, 2007, the appellant filed the current petition arguing the examiner has improperly introduced three new references in support of her rejection and this constitutes new grounds of rejection raised in the examiner answer.

Analysis and Decision

The examiner has augmented her arguments in the examiner's answer by introducing three new references. If the prior art references in the final rejection of Sep. 7, 2007 are properly applied under 35 USC § 103, then it is not necessary to add this extrinsic evidence to show the claimed features are well known in the art. One skilled in the packaging art would have known what is well now and common practice in the art. For example, to package variety of colored absorbent articles together in a transparent top wall or windowed opening for visual identification purpose. This is tantamount to citing the Periodic Chart when looking up properties of elements. Therefore, this citation of three new references should not have been added in the examiner's answer to additionally support her arguments if unneeded. If the citation of three references is necessary to understand and explain the rejection, then all three references must be applied against the claims under the rejection. In the examiner's answer of July 23, 2008, the examiner listed these three new references under the Evidence Relied Upon section, which appears to be the prior art references against the claims under the rejection. By doing so, the addition of these three references in the examiner's answer constitute new grounds of rejection[1].

In order to clarify the record and comply with MPEP § 1207.03, the examiner is directed to: 1) vacate the examiner's answer of July 23, 2008; and 2) issue a revised examiner's answer without any reference to these newly cited references, if the examiner believes the final rejection of Sep. 7, 2007 is proper, or with the TC director's approval, to clearly identify the examiner's grounds of rejection in the revised examiner's answer as new grounds of rejection with any or all of the new references. Under the circumstance, the examiner always has the option to re-open prosecution (with supervisory approval) if these new references are used as prior art references against the claims.

Conclusion

For the foregoing reasons, the relief requested by petitioner is granted to the extent that the examiner's answer of July 23, 2008 is hereby vacated and a new revised examiner's answer will be mailed in due course.

---

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

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

PETITION GRANTED.

5/8/2009

Robert Olszewski, Director
Technology Center 3700

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WARREN P. KUJAWA
461 INDIGO SPRINGS ST.
HENDERSON NV 89014

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jason Zhen-Yu Lu et al. :
Application No. 10/719,322 :
Filed: November 20, 2003 :
Attorney Docket No. 37182-17 :

This is a decision on the petition filed May 10, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned April 26, 2006 for failure to timely pay the issue fee on or before April 25, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/12/2008

TO SPE OF : ART UNIT 3700 (3739)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,169,145

Attn: Roy Gibson

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

Please complete this form and forward within 7 days to: Scanning customer Support

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location 7580 - Tel. No. 308-8309

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

Ok to enter changes to claims 46-47 as req. in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700

Approved – Roy D. Gibson – Examiner A U 3739

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/12/2008

TO SPE OF : ART UNIT 3700 (3739)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,169,145

Attn: Roy Gibson

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

Please complete this form and forward within 7 days to: Scanning customer Support

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Palm location 7580 - Tel. No. 308-8309

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

Ok to enter changes to claims 46-47 as req. in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700

Approved – Roy D. Gibson – Examiner A U 3739

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

WILLIAM A. TAYLOR
1326 ASPEN DRIVE
EVERGREEN, CO 80439

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
William A. Taylor	:	
Application No. 10/719,344	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. 3290-11	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 28, 2005.

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

A review of the file record indicates that the power of attorney to William A. Taylor has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged.

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

Diana Chacofor
Amelia Au
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

WILLIAM ARTHUR TAYLOR
1326 ASPEN DRIVE
EVERGREEN, CO 80439

In re Application of
William A. Taylor
Application No. 10/719,344
Filed: November 21, 2003
Attorney Docket No. 3290-11

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 5, 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 Greg Johnson on behalf of all attorneys of record who are associated with customer No. 23552.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Greg Johnson
1050 17th Street, Suite 1950
Denver, CO 80265

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

FULBRIGHT AND JAWORSKI L L P
PATENT DOCKETING 29TH FLOOR
865 SOUTH FIGUEROA STREET
LOS ANGELES CA 90017-2576

MAIL

MAY 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Ki Il Kim
Application No. 10/719,363
Filed: November 20, 2003
For: **MOBILE ENTERTAINMENT AND COMMUNICATION DEVICE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed February 15, 2005 under MPEP §708.02 (IV), applicant's age.

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

The petition includes a statement by inventor; Ki Il Kim, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

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OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899

In re Application of	:	
Ki Il Kim	:	
Application No. 10/719,363	:	ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 70084-00002	:	

This is a decision on the petition, filed August 3, 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 9, 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 2617 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Michael P. Adams
Winstead Sechrest & Minick P.C.
400 North Ervay Street
P.O. Box 50784
Dallas, TX 75201

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Chris A. Peirson et al. :
Application No. 10/719,364 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 41722-P001US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 13, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is September 14, 2008. A Notice of Abandonment was mailed on February 11, 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 RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3694 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Donna T. Ward et al	:
Application No. 10/719,370	: DECISION ON PETITION
Filed: November 21, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ISPT-1010	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 27, 2004, 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 pending application was filed on November 21, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt mailed on June 16,2004 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.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center Art Unit 1623 for appropriate action on the amendment filed May 27, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/22/08

DATE : 10/21/08

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10719370 Patent No.: 7217572 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

SPE [signature] Art Unit 1635

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3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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OFFICE OF PETITIONS

In re Application of :
Furtek, et al. :
Application No. 10/719,409 :
Filed: November 22, 2003 :
Attorney Docket No. **NVDA/P002849** :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the amendment filed January 10, 2007.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed 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. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35

U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

By mail: Mail Stop PETITIONS
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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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Furtek, et al. :
Application No. 10/719,409 :
Filed: November 22, 2003 :
Attorney Docket No. **NVDA/P002849** :

ON PETITION

This is in response to the "Renewed Petition under 37 CFR 1.137(b)" filed January 8, 2008. The petition will be treated as a renewed petition under 37 CFR 1.78 (a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the amendment filed January 10, 2007.

The renewed petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification remains unacceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

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

Applicant should note that the reference required by 35 U.S.C. 120 § and 37 CFR 1.78(a)(2)(i) is the claim for priority to the earlier filed application. Applicant is referred to the Section 201.11 (III) of the Manual of Patent Examining Procedure for an example of an acceptable reference to a prior application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required. The undersigned is not requesting a copy of the omitted reference, rather a proper ADS or amendment that makes the benefit claim under 35 U.S.C. § 120 and does not improperly incorporate by reference any prior application that was not incorporated by reference on filing of non-provisional application serial number 10/719,409.

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

By mail: Mail Stop PETITIONS
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By hand: Customer Service Window
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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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor, Office of Petitions

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SUITE 1500
HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of :
Furtek, et al. :
Application No. 10/719,409 : DECISION ON PETITION
Filed: November 22, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NVDA/P002849 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional applications set forth in the amendment filed concurrently with the instant petition.

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.

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. § 120 is **GRANTED**.

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

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

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, 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 matter is being referred to Technology Center 2100, Art Unit 2182 for appropriate action including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: 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
10/719,409	11/22/2003	2182	450	NVDA/P002849	4	2

CONFIRMATION NO. 3361

CORRECTED FILING RECEIPT

26290
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

OC000000032758929

Date Mailed: 10/23/2008

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)

Frederick Curtis Furtek, Menlo Park, CA;
Paul L. Master, Sunnyvale, CA;
Robert Thomas Plunkett, Sunnyvale, CA;

Assignment For Published Patent Application

Quicksilver Technology, Inc., San Jose, CA

Power of Attorney: The patent practitioners associated with Customer Number 26290

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/428,591 11/22/2002
and is a CIP of 09/815,122 03/22/2001 PAT 6,836,839

Foreign Applications

If Required, Foreign Filing License Granted: 02/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/719,409**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Input/output controller node in an adaptable computing environment

Preliminary Class

710

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
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QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O. BOX 2113
MADISON, WI 53701-2113

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SEP 19 2008

In re Application of	:	
Robert W. Curley, Jr., et al.	:	
Application No. 10/719,429	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. 960296.00482	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 19, 2007. A Notice of Abandonment was mailed on April 3, 2008. In response on May 8, 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 a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 1621 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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, 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.

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ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

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MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
Liu	:
Application No. 10/719,441	: DECISION ON PETITION
Filed: November 20, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SYMYX/8DIVCO	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **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.

As an aside, it is noted that Office records indicate that application no. 09/510,458 is a continuation-in-part of application no. 09/255,371 and application no. 09/255,371 is a continuation-in-part of application no. 09/255,384.

Petitioner states in the January 18, 2005 amendment to the specification that application no. 09/510,458 is a continuation in part of **both** application nos. 09/255,371 and 09/255,384. Office records do not show that application no. 09/510,458 is a continuation-in-part of application no. 09/255,384.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, as set forth in the January 18, 2005 amendment, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1764 for appropriate action on the amendment filed January 17, 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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS H. CLOSE
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of	:
Michael R. McGovern et al	:
Application No. 10/719,444	: DECISION GRANTING PETITION
Filed: November 21, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 87085CEB	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 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 July 5, 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 3654.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 30 2004

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of	:
Yoshihira Sokawaet al	:
Serial No.: 10/719,472	: PETITION TO MAKE SPECIAL
Filed: November 21, 2003	:
Attorney Docket No.: 55600-8013	:

This is in response to applicants' petition filed June 2, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

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

30

P E JC13
AUG 2 3 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Terry R. Galloway

Serial No.: 10/719,504

Filed: November 21, 2003

For: PROCESS AND SYSTEM FOR CONVERTING CARBONACEOUS FEEDSTOCKS INTO ENERGY WITHOUT GREENHOUSE GAS EMISSIONS

Art Unit: 1745

Primary Examiner: ~~Stephen J. Kalafut~~ Raymond Alejandro

Atty. Docket: 3178-12

CERTIFICATE OF MAILING/TRANSMISSION
(37 C.F.R. § 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:
(X) deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.
( ) transmitted by facsimile to the Assistant Commissioner for Patents.

8/19/04 Mary M. Padilla
Date Mary M. Padilla

PETITION TO MAKE SPECIAL BY ACCELERATED EXAMINATION
(37 C.F.R. § 1.102(C) AND M.P.E.P. § 708.02(V and VI))

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

Applicants hereby petition to make this application special by accelerated examination. All pending claims of the above-referenced application are directed towards a single invention. Accompanying this petition is:

1. A Statement of Facts in Support of Petition to Make Special by Accelerated Examination; and
2. No fee accompanies the filing of this Petition pursuant to 37 C.F.R. § 1.102(c).

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700 JUN 2 8 2005

PALOALTO 4074101v1

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United States Patent and Trademark Office
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GENERAL INSTRUMENT CORPORATION
D/B/A THE CONNECTED HOME SOLUTIONS BUSINESS
OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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OFFICE OF PETITIONS

In re Application of	:	
Bontempi, et al.	:	
Application No. 10/719,512	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. BCS03183	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed March 22, 2005. Accordingly, this application became abandoned on June 23, 2005. A Notice of Abandonment was mailed on September 28, 2005.

The file is being forwarded to Technology Center 2600 for review of the amendment filed November 9, 2005, *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Follansbee, David	:	
Application No. 10/719,532	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. DAVFOL.002C1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 28, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office action mailed August 14, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 15, 2007. A Notice of Abandonment was mailed February 28, 2008.

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

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

The instant petition lacks item(s) (1). The Amendment submitted to the Examiner on May 28, 2008, failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

---

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

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

The Advisory Action issued by the Examiner is enclosed.

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.

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.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JOHN N. COULBY
3050 K STREET NW., SUITE 400
WASHINGTON, DC 20007

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/719,532	Applicant(s) FOLLANSBEE, DAVID	
	Examiner NORA M. ROONEY	Art Unit 1644	

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

THE REPLY FILED 28 May 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: *The proposed amendments to the claims include limitations that have not been previously considered. In particular, the limitation "a protein of at least approximately 50,000 molecular weight obtained from a helminth" would require new search and consideration. Further, the amendments do not overcome the rejections under 112, first paragraph for reasons of record as the specification does not adequately describe such a genus of compounds for use in the claimed composition, nor would one of ordinary skill in the art at the time of invention be able to make and use the genus of all 50,000 molecular weight proteins from a helminth as a pharmaceutical composition*. (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: *1,2,8,11 and 12*.
   Claim(s) withdrawn from consideration: *7,9,10 and 13-24*.

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: _____.

/Eileen B. O'Hara/
Supervisory Patent Examiner
Art Unit 1644

Application No.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Follansbee, David	:	
Application No. 10/719,532	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. DAVFOL.002C1	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

On March 4, 2009, the Examiner issued a non-final Office action. Since this application was abandoned for failure to timely reply to the final Office action of August 14, 2007 within the extendible six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. See Lorenz v. Finkl, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the Examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the subsequent action taken by the Examiner, i.e., mailing of a non-final Office action, has been ratified. In view thereof, it is unnecessary to either vacate or re-mail the March 4, 2009 Office action.

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

This matter is being referred to Technology Center AU 1644.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON DC 20007

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Follansbee, David	:	DECISION ON PETITION
Application No. 10/719,532	:	TO WITHDRAW
Filed: November 21, 2003	:	FROM RECORD
Attorney Docket No. DAVFOL.002C1	:	

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 20, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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).

Further, 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.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed March 4, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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SUITE 400
WASHINGTON DC 20007

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SEP 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Follansbee, David	:	DECISION ON PETITION
Application No. 10/719,532	:	TO WITHDRAW
Filed: November 21, 2003	:	FROM RECORD
Attorney Docket No. DAVFOL.002C1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 2009.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioners were appointed via Customer Number. Therefore, a Request to Withdraw that does not specify the appropriate Customer Number cannot be approved.

Further, 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.

According to USPTO assignment records, the instant application does not currently have an assignee. Therefore, the only proper address change would be to that of the first named inventor, Mr. David Follansbee. Accordingly, the Request to Withdraw cannot be approved.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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Motorola, Inc.
Law Department (JTC)
600 North US Highway 45
Libertyville, IL 60048

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OFFICE OF PETITIONS

In re Application of :
Heiko K. Sacher et al. :
Application No. 10/719,576 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. CS23123US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 11, 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). A one 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 January 12, 2007. A Notice of Abandonment was mailed on June 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2174 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.

Frances Hicks
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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FOX ROTHSCHILD LLP
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

Mail Date: 06/04/2010

Applicant	: Achim Ansmann	: DECISION ON REQUEST FOR
Patent Number	: 7638662	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/719,588	: 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 **1059** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHRISTIE, PARKER & HALE, LLP
PO Box 7068
Pasadena, CA 91109-7068

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
KUBLER, et al.	:	
Application No. 10/719,608	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. 47160/LTR/R249	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 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 Leroy T. Rahn on behalf of all attorneys of record.

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

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

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

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

David Buccei
Petitions Examiner
Office of Petitions

cc: Kenneth M. Kubler
3427 Shady Oaks
Flower Mound, TX 75022

cc: John C. Poortinga, Chairman
EASI, INC.
1308 Main Street, Suite 201
Ramona, CA 92065-2146

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Edward J. Lynch
DUANE MORRIS LLP
Spear Tower, Ste. 2000
One Market
San Francisco CA 94105

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OFFICE OF PETITIONS

In re Application of	:	
Burbank et al.	:	
Application No.: 10/719612	:	ON PETITION
Filing or 371(c) Date: 11/21/2003	:	
Attorney Docket Number:	:	
R0367-00105	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 9, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed May 24, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on August 25, 2006. A Notice of Abandonment was mailed January 12, 2007.

Applicant files the present petition and Amendment in response to the Office action. Accordingly, the petition is granted[1].

This application is being referred to Technology Center Art Unit 3736 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

[1] It is also noted that Applicant filed a Terminal Discalaimer with the petition. Applicant is advised that a terminal disclaimer is no longer required for utility applications filed on or after June 8, 1995.

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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

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JUL 14 2004
OFFICE OF PETITIONS

In re Application of	:
Levnat	: DECISION REFUSING STATUS
Application No. 10/719,622	: UNDER 37 CFR 1.47(b)
Filed: November 21, 2003	:
Atty. Dkt. No.: 847-072	:
For: STAINLESS STEEL UNSEALED	:
MOTOR	:

This decision is in response to the petition under 37 CFR 1.47(b), filed May 28, 2004.

The petition is **DISMISSED**.

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

The above-identified application was filed November 21, 2003 without an executed oath or declaration and naming Moshe Levnat as sole inventor. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 8, 2004. Petitioner responded with the instant petition on May 28, 2004. The response lacked the required declaration. Hence, a Notice of Incomplete Reply was mailed April 14, 2004. There is no indication in the official application file that a response to the Notice of Incomplete Reply has been filed.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration 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 that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks items (2), (4), and (5).

The instant petition lacks item (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Any renewed petition must be accompanied by an oath or declaration in accordance with 37 CFR 1.63 and 1.64. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

As to item (4), the petition lacks a statement setting forth the last known address of the inventor. Any renewed petition should include a short statement setting forth the last known legal address of the inventor.

As to item (5), petitioner has presented no evidence of proprietary interest in the above-referenced application. Any renewed petition must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to an applicant, or that an applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of employment agreement between the inventor and an applicant or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to a Rule 47 applicant.

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window
Crystal Plaza 2, Lobby ,Room 1B03
Arlington, VA 22202

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) 2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Petitioner is encouraged to contact the undersigned at (703) 305-0310 for any clarification regarding the submission of a proper declaration.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OCT 0 7 2004

OFFICE OF PETITIONS

WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

In re Application of	:
Levnat	: DECISION REFUSING STATUS
Application No. 10/719,622	: UNDER 37 CFR 1.47(b)
Filed: November 21, 2003	:
Atty. Dkt. No.: 847-072	:
For: STAINLESS STEEL UNSEALED	:
MOTOR	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed August 16, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor Moshe Levnat 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(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 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 28 2005

In re Application of	:	
Yiu Ching Liu	:	
Serial No. 10/719,675	:	DECISION ON PETITION
Filed: November 21, 2003	:	
For: CERAMIC METALLIC LIQUID	:	
HOLDING VESSEL	:	

This is a decision on the petition to make special filed on April 26, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3727 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Steven J. Adamson, PC
P.O. Box 5997
Portland, OR 97228

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
10/719,681 .	11/21/2003	3744	986	FMC-1035	1	20	4

CONFIRMATION NO. 1305

UPDATED FILING RECEIPT

OC000000012324458

Kevin D. Erickson
Pauley Petersen & Erickson
Suite 365
2800 West Higgins Road
Hoffman Estates, IL 60195

Date Mailed: 04/09/2004

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

Applicant(s)

Harry J. Scofield, Northfield, MN;
James A. Ehret, Norwalk, OH;
Michael Brodziak, Northfield, MN;
David Walter Brown, Oak Ridge, TN;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/460,466 04/04/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/20/2004

Projected Publication Date: 10/07/2004

Non-Publication Request: No

Early Publication Request: No

Title

Process and apparatus for sealing freezer enclosures from moisture and contamination

Preliminary Class
062

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

GRANTED

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

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

02/17/04

Jay Sandvos
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PGPub replacement drawings for application number 10/719682 received on 12/18/03 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, at 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

No PPD

OIPE JC48
DEC 1 8 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	He et al.	Atty. Docket:	2639/A96
Serial No.:	10/719,682	Art Unit:	Not yet assigned
Date Filed:	November 21, 2003	Examiner:	Not yet assigned
Invention:	Discriminative Training of Hidden Markov Models for Continuous Speech Recognition	Date:	December 18, 2003

Mail Stop PGPUB DRAWINGS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR SUBMISSION OF FORMAL DRAWINGS PRIOR TO PUBLICATION OF APPLICATION

Dear Sir:

Pursuant to 37 CFR § 1.182, Applicants hereby petition to replace the informal drawings presently on file with the enclosed 2 sheets of formal drawings for Figures 1 and 2 prior to the publication of the application. A check for the petition fee of $130 set forth in 37 CFR § 1.17 (h) is enclosed.

No additional fees are believed to be due in connection with this petition. However, please charge any additional fees to Deposit Account No. 19-4972.

Respectfully submitted,

BROMBERG & SUNSTEIN LLP

12/19/2003 HDEMESS1 00000067 10719682
01 FC:8029 130.00 OP

Jay Sandvos
Registration No. 43,900
Attorney for Applicants
Date: December 18, 2003

BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110-1618
(617) 443-9292
(617) 443-0004 (Facsimile)

OIPE JC48
DEC 18 2003
PATENT & TRADEMARK OFFICE

12-14-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	He et al.	Atty. Docket:	2639/A96
Serial No.:	10/719,682	Art Unit:	Not yet assigned
Date Filed:	November 21, 2003	Examiner:	Not yet assigned
Invention:	Discriminative Training of Hidden Markov Models for Continuous Speech Recognition	Date:	December 18, 2003

Certificate of Mailing Under 37 CFR §1.10

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 in an envelope addressed to: MAIL STOP PGPUB DRAWINGS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Date: December 18, 2003

Jay Sandvos

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Commissioner for Patents
P.O. Box 1450
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TRANSMITTAL LETTER

Dear Sir/Madam:

Enclosed herewith for filing in the above-referenced patent are the following documents:

1. Petition for Submission of Formal Drawings Prior to Publication of Application;
2. Two Sheets of Formal Drawings for Figures 1 and 2;
3. Check for $130.00 for Petition Fee; and
4. Return Postcard.

No additional fees are believed to be due in connection with this matter. However, please charge any additional fees to Deposit Account No. 19-4972.

Respectfully submitted,

BROMBERG & SUNSTEIN LLP

Jay Sandvos
Registration No. 43,900
Attorney for Applicant

BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110-1618
Tel: 617 443 9292
Fax: 617 443 0004

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRW Mar-08

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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MAR 04 2008

OFFICE OF PETITIONS

In re Application of	:	
He et al.	:	DECISION ON PETITION TO
Application Number: 10/719682	:	WITHDRAW HOLDING OF
Filing Date: 11/21/2003	:	ABANDONMENT
Attorney Docket Number:	:	
2639/A96	:	

This is a decision on the petition filed on January 30, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action requiring restriction and/or election (hereinafter "the Office action") mailed on April 11, 2007, which set a one (1) month shortened statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners assert that the Office action mailed on April 11, 2007, was never received.

In the absence of any irregularity in the mailing of the Office action mailed on April 11, 2007, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office 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 communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53

(November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.[1]

In support of the petition, petitioners' registered patent practitioner has provided a copy of his docket report where the non-received Office action would have been entered, showing that the Office action was not received, and has provided a statement that a search of the file jacket and docket records indicates that the Office action was not received.

The petitioners have made a sufficient showing of nonreceipt of the Office action. Accordingly, there was no abandonment in fact. Any holding of abandonment is withdrawn.

Receipt of the amendment including an election of claims filed with the present petition is acknowledged.

The $400.00 fee filed with the present petition is unnecessary and will be credited to counsel's deposit account.

As a response to the Office action mailed on April 11, 2007, has been filed with the petition, it is not necessary to remail the Office action. Rather, the application will be referred to the Technology Center for action on the reply filed with the present petition.

The petition is **GRANTED.**

The application is referred to Technology Center Art Unit 2626 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] It is also noted that the Office action was returned to the Office as undeliverable on April 16, 2007. As such, the showing of record also suggests that the Office action was not received because it was inexplicably returned to the Office as undeliverable.

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

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MAR 2 7 2008

OFFICE OF PETITIONS

In re Application of
William R. Murray, Jr. et al.
Application No. 10/719,685
Filed: November 21, 2003
Attorney Docket No. 20006-7005

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 18, 2008.

The request is **APPROVED**.

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

The request was signed by Joseph A. Sawyer, Jr. on behalf of all attorneys/agents associated with customer number 29141. All attorneys/agents associated with customer number 29141 have been withdrawn.

The power of attorney filed on November 19, 2004, was improperly accepted. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that a reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be proper, compliance with 37 CFR 3.73(b) must be satisfied. A form for compliance with this provision may be found on the USPTO.gov website (Form No. PTO/SB/96).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the applicant, since no assignee has properly intervened in this application. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If you would like to receive future correspondence regarding this application, then the proper power of attorney documents must be submitted.

A final rejection was mailed on February 7, 2008. Failure to timely respond will result in the abandonment of this application.

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

There are no outstanding Office actions in this case.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Patent Law Offices of Michael Woods
3422 Wheeling Drive
Santa Clara, CA 95051

cc: William R. Murray, Jr.
573 Marlin Court
Redwood City, CA 94065

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/719,685	11/21/2003	William R. Murray JR.	20006-7005

CONFIRMATION NO. 1898

POWER OF ATTORNEY NOTICE

29141
SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

OC000000029107520

Date Mailed: 03/27/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

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

/kainabinet/

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

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TECHNOLOGY CENTER 3600

Robert Patterson
Blue Springs Rd Rt-1
Box 66-A
Wapanucka, OK 73461

In re application of
Robert A. Patterson
Application No. 10/719,717
Filed: November 21, 2003
For: METHOD AND APPARATUS FOR QUANTUM VORTEX IMPLOSION PROPULSION AND SPECIES

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENT) OR (ENERGY) OR (SUPERCONDUCTIVTY)

This is a decision on the petition filed on November 21, 2003 under 37 CFR 1.102 to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, Section VI: Energy, or Section IX: Superconductivity.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by statements under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section IX for an invention relating to superconductivity, must be accompanied by a statement under 37 CFR 1.102 that the invention involves superconductive materials.

The petition fails to provide any statement under 37 CFR 1.102.

The petition to make special based on Section V: Environmental Quality is **DISMISSED.**

The petition to make special based on Section VI: Energy is **DISMISSED.**

The petition to make special based on Section IX: Superconductivity is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

KJD/dgd: 4/27/05

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HENRICKS SLAVIN AND HOLMES LLP
SUITE 200
840 APOLLO STREET
EL SEGUNDO CA 90245

In re Application of:
Thompson, Russell B. et al
Serial No.: 10/719,727
Filed: Nov. 20, 2003
Docket: 15916-232x3
Title: ASSEMBLIES FOR CREATING COMPOUND CURVES IN DISTAL CATHETER REGIONS

DECISION ON PETITION TO ISSUE CLEAR OFFICE ACTION
37 CFR 1.181 and 1.104(C)(2)

This is a decision on the petition filed Apr. 21, 2008 to request the examiner to issue a supplemental Office action in compliance with 37 CFR § 1.104(C) (2). The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **GRANTED**.

In his Apr. 21, 2008 petition, petitioner requests the examiner to issue a supplemental Office action in a manner that complies with 37 CFR § 1.104 (C)(2) because in the final Office action of Jan. 24, 2008, the examiner failed to clearly explain the rejection. In the amendment after final filed on Mar. 19, 2008, the applicant asked the examiner again to provide a clearer explanation of the Office action. On Apr. 15, 2008 in the advisory action, the examiner stated that the next Office action will provide a more detailed comparison of the numerous claimed structural elements and the prior art structural elements as requested. Subsequently, the current petition was filed on Apr. 21, 2008 to request a clear Office action in order to advance the prosecution.

After consulting with the examiner, it was agreed that a supplemental Office action should be sent in order to meaningfully advance the prosecution. The previous Office action of Apr. 15, 2008 is herby withdrawn. An Office action in compliance with 37 CFR § 1.104(C) (2) will follow in due course.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3767 for preparation of a new Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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Alexandria, VA 22313-1450
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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
STEINER, Solomon S. et al.	:	
Application No. 10/719,734	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. **PDT120121DIVCON**	:	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 07, 2007.

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

A review of the file record indicates that the power of attorney to PABST PATENT GROUP LLP has been revoked by the assignee of the patent application on January 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **KIRKPATRICK & LOCKHART PRESTON**
GATES ELLIS LLP
1900 MAIN STREET, SUITE 600
IRVINE CA 92614-7319

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

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OFFICE OF PETITIONS

In re Patent No. 7,520,881
Issued: April 21, 2009
Application No. 10/719,764
Filed: November 21, 2003
Dkt. No.: 10000/209

: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed June 16, 2009.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,520,881 on April 21, 2009. The patent issued with a patent term adjustment of 471 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees argue that the application is entitled to an additional adjustment of 74 days in accordance with 37 CFR 1.703(a)(3) in connection with the mailing of a non-final Office action on April 30, 2008. Patentees also argue that the application is entitled to an additional adjustment of 329 days pursuant to 37 CFR 1.703(b) on the basis that the Office took in excess of three years to issue the above-referenced patent. Patentees reference Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008) and assert that the patent is entitled to an adjustment of 874 days (675 days pursuant to 35 USC 154(b)(1)(A) *plus* 329 days pursuant to 35 USC 154(b)(1)(B) *less* 130 days of applicant delay).

As to patentees' contention that the patent is entitled to an additional adjustment of 74 days in accordance with 37 CFR 1.703(a)(3) in connection with the mailing of the non-final Office action on April 30, 2008, patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the 74 day adjustment that patentees assert that the patent is entitled, patentees' request for reconsideration of said adjustment is dismissed as untimely.

As to patentees' argument that the patent is entitled to an additional adjustment of 329 days pursuant to 37 CFR 1.703(b), patentees are advised that under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on October 16, 2007, the application was pending three years and 328 days after its filing date (November 22, 2006 to October 15, 2007). The Office asserts that at the time of filing of the RCE certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 509 days is

correct. At issue is whether patentees should accrue 328 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 509 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 328 days of delay in issuing the patent overlaps with the 509 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

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

---

[1] Likewise, 37 CFR 1.703(f) provides that:

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

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 21, 2003, and ending on October 15, 2007, the day before the date that the RCE was filed on October 16, 2007.

Prior to the filing of the RCE, pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), the application was accorded 509 days of examination due to examination delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 328 days prior to the filing of the RCE.

The 328 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 509 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 328 days and the 509 days is neither permitted nor warranted given that 509 days is the actual number of days issuance of the patent was delayed as of the filing of the RCE.

Accordingly, at issuance, having considered the 328 days of Office delay under the three-year pendency provision in conjunction with the 509 days of examination delay under 37 CFR 1.702(a)(1) that accrued prior to the filing of the RCE and the 92 days of examination delay under 37 CFR 1.702(a)(2) that accrued subsequent to the filing of the RCE, reduced 130 days for applicant delay, the Office properly entered 471 days of patent term adjustment.

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

No additional fees are due in connection with this matter.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Jason D. Foushee	: DECISION ON REQUEST FOR
Patent Number	: 7520881	: RECALCULATION of PATENT
Issue Date	: 04/21/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/719,764	: 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 **799** 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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Qualcomm Incorporated
5775 Morehouse Drive
San Diego, CA 92121

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Yongbin Wei et al.	:	
Application No. 10/719,807	:	DECISION ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. 000458C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 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 27, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 27, 2009. Accordingly, the date of abandonment of this application is May 28, 2009. A Notice of Abandonment was mailed on June 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 05/21/2010

Applicant	: Terrence A. Tomkow	: DECISION ON REQUEST FOR
Patent Number	: 7660989	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/719,812	: 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 **1125** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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DIW Oct-06

INVISTA NORTH AMERICA S.A.R.L.
THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON DE 19808

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OCT 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
Termonia et al.	:	
Application No. 10/719,813	:	DECISION ON PETITION
Filed: 21 November, 2003	:	
Atty Docket No. CL2120USNA	:	
	:	

This is a decision on the petition filed on 17 July, 2006, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 January, 2006, for failure to timely and properly reply to the final Office action mailed 14 October, 2005, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 15 May, 2006.

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the required reply under 37 CFR 1.114.

---

[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)).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 17 July, 2006, was submitted more than three (3) months after the end of the period for reply to the Office communication mailed on 14 October, 2005, and therefore is unnecessary. The extension of time fee paid on 17 July, 2006, will be credited to counsel's deposit account as authorized.

This application is being referred to the Technology Center for further processing.

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

UNITED STATES PATENT AND TRADEMARK OFFICE

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July 2005

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

SEP 14 2005

In re Application of: SHINICHI NISHIYAMA ET AL. Serial No.: 10/719,821 Filed: 20 November 2003 Docket: 16869P-098800US Title: COOLING STRUCTURE FOR ELECTRONIC DEVICES	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on January 28, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention, and that any election later required will be made without traverse; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a discussion of the teaching of the references.

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

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

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

Petitioner presents a summary of the limitations of independent claim 1, a statement that none of the references disclose the cooling structure having combination of limitations found in the claim 1, and a list of each of the cited references along with a short summary of the teachings of each reference.

Petitioner fails to distinguish each independent claim from each reference in a manner satisfying 37 CFR § 1.111 (b) and (c). For instance, with respect to submitted reference to 5,063,475, petitioner does not state what limitations the claims recite which are neither disclosed nor made obvious by the reference. The same defect is found for all of the submitted references. Such a statement is required under 37 CFR § 1.111 (b) and (c). A mere summary of the claims and the references, with no comparison and distinguishment between the two, is insufficient to satisfy the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

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

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

Any 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

OIPE JC42
JAN 16 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

January 13, 2004

In re application of	:	Alberto DiBella
Application No.	:	10/719,825
Filed	:	11/21/2003
For	:	VORAXIAL FILTRATION SYSTEM WITH SELF-CLEANING AUXILIARY FILTRATION APPARATUS
Our File No.	:	5041.001 1723- Dodge, J.

PETITION TO MAKE SPECIAL
DUE TO APPLICANT'S AGE
(37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV))

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

Dear Commissioner:

Applicant hereby petitions to make this application special pursuant to M.P.E.P. 708.02(IV) due to the fact that the Applicant has obtained the age of seventy three (73) years. See, M.P.E.P. §708.02.

Accompanying Material

Accompanying this petition is:

1. Declaration by Applicant of Facts in Support of Petition to Make Special including copy of Florida Driver's license attached thereto.

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700 AUG 3 0 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARK D. BOWEN, ESQ.
MALIN HALEY DIMAGGIO BOWEN & LHOTA, P.A.
1936 S. ANDREWS AVENUE
FT. LAUDERDALE FL 33316

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AUG 15 2008

In re Application of	:	
Dibella et al.	:	
Application No.: 10/719825	:	ON PETITION
Filing or 371(c) Date: 11/21/2003	:	
Attorney Docket Number:	:	
5041.001	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed May 6, 2008

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed February 7, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on May 8, 20067. A Notice of Abandonment was mailed August 16, 2006.

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

This application is being referred to Technology Center Art Unit 1723 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/
Derek L. Woods
Attorney
Office of Petitions

CC: OLTMAN, FLYNN AND KUBLER
915 MIDDLE RIVER DRIVE, NO. 415
FORT LAUDERDALE, FL 33304-3585

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK D. BOWEN, ESQ.
MALIN HALEY DIMAGGIO BOWEN & LHOTA, P.A.
1936 S. ANDREWS AVENUE
FT. LAUDERDALE FL 33316

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of
DIBELLA, Alberto et al.
Application No. 10/719,825
Filed: November 21, 2003
Attorney Docket No. **5041.001**

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 June 23, 2009.

The request is **APPROVED**.

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

The request was signed by Mark Bowen on behalf of all attorneys of record who are associated with customer No. 27324. All attorneys/agents associated with the Customer Number 27324 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 June 16, 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: **ALBERTO DIBELLA**
414 GALLERIA PROFESSIONAL BLDG.
915 MIDDLE RIVER DRIVE
FT. LAUDERDALE FL 33301

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Ramesh M. Kanojia et al :
Application No. 10/719,875 :
Filed: November 21, 2003 :
Attorney Docket No. ORT-1547-US-CIP :

ON PETITION

This is a decision on the petition, filed July 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/719,878	11/21/2003	2858	770	5201-27900 03-0940	3	20	3

CONFIRMATION NO. 3082

CORRECTED FILING RECEIPT

OC000000012317845

Leo Peters
LSI Logic Corporation
1621 Barber Lane, MS D-106
Milpitas, CA 95035

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)

Jeffrey S. Brown, Ft. Collins, CO;
Craig R. Chafin, Colorado Springs, CO;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/20/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Device and method for using a lessened load to measure signal skew at the output of an integrated circuit

Preliminary Class

324

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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REED SMITH LLP
2500 One Liberty Place
1650 Market Street
Philadelphia PA 19103-7301

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of	:	
David MILLARY et al.	:	
Application No. 10/719,889	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 03-40206-US	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed January 20, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

While the instant petition meets the above requirements it is signed by only David Millary and not by all of the applicants for patent. See 37 CFR 1.33(b).

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

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By FAX:	(571) 273-8300

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.

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 3624 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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REED SMITH LLP
2500 One Liberty Place
1650 Market Street
Philadelphia PA 19103-7301

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OFFICE OF PETITIONS

In re Application of	:	
Millary et al.	:	
Application No. 10/719,889	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 03-40206-US	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 11, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Jefferey Harold at 571-272-7519, or the undersigned at 571-272-7099.

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 3692 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/10/2009

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/749,896 Patent No.: 7,423,148 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: DO NOT enter correction to column 149-151. It introduces NEW MATTER. There is no support for the second structure which is dihydroindazole. The original structure was 1,2,3-benzotriazole which has support in written description

1624

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3380 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

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OCT 2 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Xue Mei Zhou
Application No. 10/719,900
Filed: November 20, 2003
Attorney Docket No. 3528.1

This is a decision on the petition filed October 18, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on April 26, 2004, for failure to timely reply to the Notice to File Missing Parts, mailed February 25, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The petition precedes the mailing of a Notice of Abandonment.

The filing of the oath or declaration as required by the Notice to File Missing Parts mailed February 25, 2004 is acknowledged.

All other requirements having been met , this application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Paul KEARNEY, et al.	:	
Application No. 10/719,916	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. CAPN-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 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 Pamela J. Sherwood on behalf of all attorneys of record who are associated with customer No. 24353.

All attorneys/agents associated with the Customer Number 24353 have been withdrawn.

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

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

There is an outstanding Office Action mailed May 12, 2006 that requires a reply from the applicant.

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: Paul E. Kearney
41 Brue Avene
Montreal, QC H4Z 2E1

cc: J. Cooper Macdonald
CLARK & ELBING LLP
101 Federal Street
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/719,916	11/21/2003	Paul Edward Kearney	CAPN-001

CONFIRMATION NO. 7002

OC000000019713813

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 07/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2005.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of
Paul Edward KEARNEY, et al
Application No. 10/719,916
Filed: November 21, 2003
Attorney Docket No. 50111/081002

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 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to, Clark & Elbing LLP has been revoked by the assignee of the patent application on April 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: MATHEW J. MARQUARDT
TORYS LLP
79 WELLINGTON STREET WEST
TORONTO, ONTARIO
CANADA
M5K 1N2

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In re Patent No. 6863031
Issue Date: March 8,2005
Application No. 10719917
Filed: November 21,2003
Attorney Docket No. 16990.51289

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

This is a decision on the electronic petition, filed July 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 8,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6863031	2005-03-08	10719917	2003-11-21	

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/wpg/	Date (YYYY-MM-DD)	2009-07-08
Name	William P. Glenn Jr.	Registration Number	36526

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA CA 92037

In re Application of
BAUM, Marc M. et al.
Application No. 10/719,924
Filed: November 21, 2003
Attorney Docket No. **1142-P0001**

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 10, 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 Cynthia Casby on behalf of all attorneys of record who are associated with customer No. 36067. All attorneys/agents associated with the Customer Number 36067 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 November 03, 2008 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: **MARC M. BAUM**
2275 EAST FOOTHILL BOULEVARD
PASADENA CA 91107

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of:
FLANNINGAN, PAUL J.
Serial No.: 10/719,959
Filed: November 21, 2003
Docket: 59010US002
Title: RESPIRATORY FACEPIECE AND METHOD OF MAKING A FACEPIECE USING SEPARATE MOLDS

DECISION ON PETITION

This is a decision on the petition filed on July 11, 2008 by which petitioner requests to reverse the Examiner's position that the specification is introducing new matter under 35 USC §132(a) amended on June 5, 2007 pursuant to 37 CFR §1.181. No fee is required.

The petition is **GRANTED**.

The record shows that:

1) In response to the office action of May 8, 2007, on June 5, 2007, the applicant amended the specification to modify the definition of the "fluid communication component" in order to attempt to overcome the Scholey 102(b) rejection.
2) On August 22, 2007, the examiner issued a final rejection, repeating rejected claims 1-26. The examiner also objected to the amendment to the specification under 35 USC §132(a) because it raised an issue of new matter not supported by the original disclosure.
3) On September 25, 2007 the applicant responded with remarks to the 35 USC §132(a) objection identifying the support in the specification for the June 5, 2007 amendment.
4) On November 9, 2007 the applicant filed a notice of appeal pursuant to 37 CFR §41.31(a).
5) On January 9, 2008 the applicant filed an appeal brief restating the remarks presented on September 25, 2007 and providing additional analysis to rebut the 102 and 103 rejections.
6) On May 15, 2008 the examiner mailed an examiner's answer to the appeal brief repeating the 35 USC §132(a) objection for claiming new matter.
7) On July 11, 2008, the applicant filed a petition to request a withdrawal of the examiner's objection that the specification is introducing new matter under 35 USC §132(a) amended on June 5, 2007 pursuant to 37 CFR §1.181.

Discussion

In the petition, petitioner argues that the amendment should be entered because it is supported by the original disclosure. In particular, the petitioner argues that the added phrase in the definition of the fluid communication component is not new matter. The added passage in the specification regarding "Fluid communication component means an element that is *not part of a filter cartridge and that is* structured to allow a fluid to pass from an interior gas space to an exterior gas space or vice versa" (emphasis added) is fully supported by the original disclosure. A review of the disclosure shows that this added phrase is in fact sufficiently disclosed by the specification in page 5 lines 25-32. Therefore, the objection to the speciation for added passage is withdrawn.

It should be noted that during prosecution, claims are interpreted as broadly as their terms reasonably allow pursuant to MPEP § 2111.01. The examiners do not read into the claims any limitation that is not claimed but merely disclosed in the specification. In this case, the claim does not specifically recite the fluid communication component is not part of a filter cartridge. Therefore, the examiner has applied the prior art references as stated in the examiner's answer.

Conclusion

For the foregoing reasons, the relief requested by petitioner is granted. However, granting this petition does not and should not affect the interpretation of the claim limitation by the examiner in accordance with MPEP § 2111.01 in the office action, nor does it affect the pending appeal. This petition will be forwarded to the Board of Appeals for a decision. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Paul J. Flanningan	: DECISION ON REQUEST FOR
Patent Number	: 7650884	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/719,959	: 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 **598** 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
10/719,960	11/20/2003	2852	770	10011454-3	5	20	3

CONFIRMATION NO. 3573

CORRECTED FILING RECEIPT

OC000000012316783

022879
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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)

Laurent A. Regimbal, Round Rock, TX;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/202,161 07/24/2002 PAT 6,679,600

Foreign Applications

If Required, Foreign Filing License Granted: 02/20/2004

Projected Publication Date: 06/03/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for increasing image gloss

Preliminary Class

399

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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EMIL GRAN
3196 CAMBRIDGE AVENUE
BRONX, NY 10463

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Emil Gran	:	
Application No. 10/719,964	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 27, 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 Inventor Emil Gran stating that he/she is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2624 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

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OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Anis Zribi et al	:	
Application No. 10/719,971	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. 132669-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 24, 2005.

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

There is no indication that the person signing the instant petition was ever given a

power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 2855.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: WILLIAM E. POWELL
1 RESEARCH CIRCLE
BLDG. K1-3A68
NISKAYUNA, NY 12309

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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
10/719,974	11/20/2003	2832	664	56334.00011	5	39	4

CONFIRMATION NO. 3566

CORRECTED FILING RECEIPT

OC000000013185687

SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

Date Mailed: 07/08/2004

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)

Joel Keith Parkinson, Chandler, AZ;
Wayne Keith Parkinson, Phoenix, AZ;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/20/2004

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Elastomer keypad and bezel

Preliminary Class

200

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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SUITE 2700
40 NORTH CENTRAL AVENUE
PHOENIX AZ 85004-4498

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OFFICE OF PETITIONS

In re Application of :
Joel Keith Parkinson et al :
Application No. 10/719,974 : ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. 56334.00011 :

This is a decision on the petition, filed August 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 2832 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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Paper No. _____

Date : August 22, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Joel Keith Parkinson et al
Application No. :10/719,974
Filed :November 20, 2003

The above-identified application has been assigned Patent No. 6,936,778 and an issue date of August 30, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 30, 2005:

"All reference to Patent No. 6,936,778 to Joel Keith Parkinson et al of Arizona for ELASTOMER KEYPAD AND BEZEL appearing in the Official Gazette of August 30, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Devine, Millimet & Branch, P. A.
111 Amherst Street
Box 719
Manchester, NH 03105

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OFFICE OF PETITIONS

In re Application of :
Glenn L. Beane :
Application No. 10/719,975 :
Filed: November 21, 2003 :
Attorney Docket No. 1529-003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A Notice to File Missing Parts was mailed to applicant on February 23, 2004, which set a two (2) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on April 24, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, the statutory filing fee, an executed oath or declaration, and late surcharge. Receipt of the filing fee, surcharge, and oath or declaration is acknowledged.

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

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

Marianne E. Jenkins

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

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Stephane Moreau	: DECISION ON REQUEST FOR
Patent Number	: 7624537	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/719,977	: 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 **217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
McGee et al.	:	
Application No. 10/719,997	:	DECISION ON PETITION
Filed: November 20, 2003	:	TO WITHDRAW
Attorney Docket No. 018781-006330US	:	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 18, 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 William B. Kezer on behalf of all attorneys of record who are associated with Customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 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.

There is an outstanding Office action mailed February 28, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: AMGEN INC.
1120 VETERANS BOULEVARD
SOUTH SAN FRANCISCO CA 94080

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of McGee et al. Application No. 10/719,997 Filed: November 20, 2003 Attorney Docket No. 11134-096-999	: : : : : :	ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed February 17, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred ninety (290) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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).

---

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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OFFICE OF PETITIONS

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

In re Patent No. 7,601,841 McGee et al. Issue Date: October 13, 2009 Application No. 10/719,997 Filed: November 20, 2003 Attorney Docket No. 11134-096-999 Title: QUINOLINYL AND BENZOTHIAZOLYL MODULATORS	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 11, 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 four hundred nine (409) 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 four hundred eight (408) 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 21, 2006 and ends on June 10, 2008, the day before the RCE was filed, and is 568 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 408, not 409 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 $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-3013. 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 **four hundred eight (408)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,841 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : McGee 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 326 days

Delete the phrase "by 326 days" and insert – by 408 days--

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

Mail Date: 04/21/2010

Applicant	: Lawrence R. McGee	: DECISION ON REQUEST FOR
Patent Number	: 7601841	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/719,997	: 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 **490** 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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December 27, 2006

Patent No. : 7,127,391 B2
Ser. No. : 10/720000
Inventor(s) : Chang, et al.
Issued : October 24, 2006
Title : **METHOD AND APPARATUS FOR SLICE POINT DETERMINATION**
Docket No. :

Re: Request for Certificate of Correction

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

Comparison of the patent in **Figure 2**, with the corresponding location in the application file reveals that there is no discrepancy.

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

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

WEIDE & MILLER - MINDSPEED
7251 WEST LAKE MEAD BLVD.
SUITE 530
LAS VEGAS NV 89128

CBN/eme

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Paper No. None

Colin P. Abrahams
Suite 400
5850 Canoga Avenue
Woodland Hills CA 91367

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OFFICE OF PETITIONS

In re Application of Ajithkumar Sandur Application No. 10/720,010 Filed: November 21, 2003 Attorney Docket No. 1230-102.US Title: METHOD FOR PRODUCING GEARS AND/OR SHAFT COMPONENTS WITH SUPERIOR BENDING FATIGUE STRENGTH AND PITTING FATIGUE LIFE FROM CONVENTIONAL ALLOY STEELS	DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed February 8, 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 December 6, 2005, which set a shortened statutory period for

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.

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 March 7, 2006. A notice of abandonment was mailed on July 24, 2006.

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

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ROSSI, KIMMS & McDOWELL LLP.
P.O. BOX 826
ASHBURN VA 20146-0826

[redacted]

OCT 1 5 2007

In re Application of	:	
Noriaki Matsui et al	:	DECISION ON REQUEST TO
Application No. 10/720014	:	PARTICIPATE IN PATENT
Filed: November 24, 2003	:	PROSECUTION HIGHWAY
Attorney Docket No. CANO:100	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 11, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Jonathon Fischer, et al.	:	
Application No. 10/720,017	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. 03-1052	:	

This is a decision on the petition, filed February 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated January 26, 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 forwarded to Technology Center AU 2125 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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**MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606**

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Jonathon Fischer et al	:	
Application No. 10/720,017	:	ON PETITION
Filed: November 21, 2003	:	
Attorney Docket No. 03-1052	:	

This is a decision on the petition, filed January 18, 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 November 6, 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 2125 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
Thomas P. Branch	:	
Application No. 10/720,023	:	ON PETITION
Filed: November 19, 2003	:	
Attorney Docket No. 45011-271086	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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

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

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

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

The instant application was filed on November 19, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an

amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, intermediate international application PCT/US99/18074 was filed within twelve months of provisional Application Nos. 60/096,105, 60/096,104 and 60/095,952, which were filed on August 20, 1998, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 3743 for examination in due course, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Sherry D. Brinkley

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

Frances Hicks

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

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SCHERING-PLOUGH BIOPHARMA
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO CA 94304

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JUN 24 2009

OFFICE OF PETITIONS

In re Patent No. 7,422,743	:	
Chirica et al.	:	
Issued: September 9, 2008	:	DECISION ON REQUEST FOR
Application No. 10/720,026	:	RECONSIDERATION OF
Filed: November 21, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
DX01074B1K	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed on November 7, 2008. Patentees request that the patent term adjustment indicated on the face of the patent be corrected from 575 days to 956 days.

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

On September 9, 2008, the above-identified application matured into US Patent No. 7,422,743 with a patent term adjustment of 575 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

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

Patentees assert, in part, that they are entitled to additional patent term adjustment pursuant to Wyeth v. Dudas.[1] Patentees request recalculation of the patent term adjustment to include a

[1] 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

443 day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 443 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 613 days.

The 443 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on November 21, 2003, and a request for continued examination (RCE) having been filed in this application on February 2, 2008, three years and 443 days later. Patentees assert that in addition to this 443 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 613 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A first non-final Office action was mailed on May 18, 2005, 14 months and 613 days after the application was filed on November 21, 2003.

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, the period of Office delay reduced by the period of applicant delay. Patentees also assert that the total period of applicant delay is 100 days.[2]

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of an RCE (443 days) and the period of Examination Delay (613 days) 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 14 month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 1056 days, which is the sum of the period of Three Year Delay (443

[2] Patentees do not dispute the reduction of 2 days, pursuant to 37 CFR 1.704(b), for the filing on May 29, 2007, of a reply to the non-final Office action mailed on February 27, 2007, three (3) months and two (2) days after the mailing of the Office action, or the reduction of 36 days, pursuant to 37 CFR 1.704(c)(10), for the mailing, on July 9, 2008, of a response to an amendment after the mailing of a notice of allowance 36 days after the filing, on June 4, 2008, of the amendment after the mailing of a notice of allowance.

days) and the period of Examination Delay (613 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 956 days (443 + 613 reduced by 0 overlap - 100 (applicant delay)).

The Office agrees that as of the filing of the RCE on February 7, 2008, the application was pending 3 years and 443 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 613 days is correct. At issue is whether Patentees should accrue 443 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 613 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 443 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, 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 (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[3]

As such, 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 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"

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[3] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 21, 2003, as terminated by the filing of the RCE on February 7, 2008. 613 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 443 days for Office delay in issuance of the patent, as terminated by the filing of an RCE, overlap with the 613 days of Office delay accorded prior to issuance of the patent. 613 days is determined to be the actual number days that the issuance of the patent was delayed, considering the 443 days over three years to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

Patentees further assert that a period of reduction of patent term should be entered for the mailing of a notice of allowance on April 8, 2008, 62 days after the filing of a request for continued examination on February 7, 2008.

Patentees are incorrect. The filing of a request for continued examination after the mailing of a notice of allowance is not grounds for a reduction in patent term adjustment under 37 CFR 37 CFR 1.704(c)(10). As such, entry of a period of reduction of 62 days is not warranted.

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

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 the Deputy Commissioner
for Patent Examination Policy

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVE
MILWAUKEE WI 53202

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Johnson, et al.	:	
Application No. 10/720,027	:	DECISION ON PETITION
Filed: November 20, 2003	:	
Attorney Docket No. 066-42-9536-01	:	

This is a decision on the "PETITION TO ACCORD FILING DATE PURSUANT TO 37 C.F.R. §§ 1.53 AND 1.182", filed March 14, 2005, requesting that the above-identified application be accorded a filing date of November 20, 2003, and not the presently accorded date of August 30, 2004.

The petition is **GRANTED**.

The application was filed on November 20, 2003. However, on February 26, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application", stating that the application had been accorded a filing date of November 30, 2003; however, Figures 41 and 42 of the drawings as described in the specification appeared to have been omitted. In addition, the statutory basic filing fee and oath or declaration were missing. With respect to the drawings, applicants were instructed that they could: (1) file a petition (together with a $130 petition fee) alleging that the drawings were in fact present; (2) supply the omitted drawing figures, pay a $130 petition fee, and request the date of the submission as the new filing date; or (3) take no action, which would be treated as constructive acceptance by applicants of the application as filed. While the Notice to File Missing Parts set an extendable period for reply of two (2) months with respect to the submission of the statutory basic filing fee and the oath or declaration, with respect to the omitted drawings the two (2) month period for reply was not extendable.

In response, applicants took no action with respect to the omitted drawing figures within the two (2) month period for reply, thereby constructively accepting the application as filed. With respect to the statutory basic filing fee and the oath or declaration, applicants filed these items in response to the Notice on August 30, 2004, made timely by purchasing a four (4) month extension of time and including a Certificate of Mailing dated August 25, 2004. In addition, on that same date, applicants filed a copy of Figures 41 and 42 together with a Preliminary Amendment, seeking to amend the application to include these figures based upon an incorporation by reference statement to a prior filed provisional application (60/523,716).

In response, the Office accorded the application a filing date of August 30, 2004. Applicants filed a Request for Correct Filing Receipt on October 18, 2004, which was dismissed in a communication mailed on October 25, 2004. In turn, applicants have filed the instant petition.

It is obvious that the Office erred in according the application a filing date of August 30, 2004. The application met the requirements for a filing date on November 20, 2003.

Moreover, MPEP § 201.06(c) states that:

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

Obviously, in view of the incorporation by reference statement to prior filed provisional application, the drawings of Figures 41 and 42 are not new matter if they were a part of the disclosure of that application. That issue will be determined by the Examiner in due course.

Given the basis for granting this petition, no fee was required.

The file is being returned to OIPE for processing <u>with a filing date of November 20, 2003, **not** August 30, 2004</u>, using the application papers filed on November 20, 2004, and for indication in Office records that seventy-two (72) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-28-09 **Paper No.:** _____

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10720027 Patent No.: 7157882

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Valerie Jacobs
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: All changes are approved --ET 2/2009

_____ **SPE** _____ **Art Unit**

APPROVED: /ET/

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit 2838

In re

Patent Application of

Todd W. Johnson et al.

Application No. 10/720,027

Confirmation No.: 3207

Filed: November 20, 003

Examiner: Edward H. Tso

U.S. Patent No. 7,157,882

Issued: January 2, 2007

"METHOD AND SYSTEM FOR BATTERY PROTECTION EMPLOYING A SELECTIVELY-ACTUATED SWITCH"

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
ATTN: CERTIFICATE OF CORRECTION BRANCH
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is hereby requested that a Certificate of Correction be issued with respect to Patent No. 7,157,882, granted January 2, 2007, in accordance with the Certificate of Correction form attached hereto.

Please charge the $100 fee under 37 C.F.R. § 1.20(a), and any other fees required for this communication, to Deposit Account No. 13-3080.

Respectfully submitted,

Carlo M. Cotrone

Carlo M. Cotrone
Reg. No. 48,715

File No. 066042-9536-01
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108
414.271.6560

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
CERTIFICATE OF CORRECTION

PATENT NO: 7,157,882

ISSUE DATE: January 2, 2007

INVENTOR(S): Todd W. Johnson, Dennis J. Grzybowski, Mark A. Kubale, Jay J. Rosenbecker, Karl F. Scheucher, Gary D. Meyer, Jeffrey M. Zeiler, and Kevin L. Glasgow

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

Please insert the following information under Prior Publication Data on the face of the patent:

US2005/0007068 A1 January 13, 2005

Column 5, line 21, delete "the" after "In".

Column 6, line 49, insert --110, 115 and 120-- after "terminals"; line 62, "print" should read --printed--.

Column 7, line 21, "illustrate" should read --illustrated--.

Column 8, line 38, "fall" should read --falls--.

Column 9, line 39, "providing" should read --provide--.

Column 10, line 39, "from" should read --for--.

Column 11, line 14, "11e" should read --11E--; line 65, "FIGS. 7-9" should read --FIGS. 8 and 9--.

Column 12, line 39, "4 and 5" should read --9 and 10--; lines 44 and 50, "FIG. 5" should read --FIG. 10-- in both instances.

Column 13, lines 58 and 61, "that" should read --the-- in both instances.

Column 14, line 4, "20" should read --50--; line 61, "my" should read --may--.

Column 15, lines 28 and 30, "20" should read --50-- in both instances; line 29, "disable" should read --disabling--.

Column 17, lines 8 and 11, "20-22" should read --17-19-- in both instances; line 22, "20" should read --17--; line 62, "21 and 22" should read --18 and 19--.

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Column 18, line 8, "21 and 22" should read --18 and 19--; lines 9 and 18, "FIG. 21" should read --FIG. 19-- in both instances; line 23, "FIG. 22" should read --FIG. 18--; lines 44 and 46, "345" should read --340-- in both instances; line 52, insert --400-- after "housing"; line 53, "connecting" should read --connection--.

Column 19, line 32, "pack" should read --battery--.

Column 20, line 11, "sown" should read --shown--; line 16, "115a" should read --155a--; line 22, "160" should read --160a--; line 27, "include" should read --includes--; line 31, "105" should read --110--; line 32, "110" should read --115--.

Column 22, line 26, delete "a" after "are"; line 62, "cells" should read --cell--.

Column 23, line 4, delete "included" after "longer"; line 8, "construction" should read --constructions--.

Column 25, line 2, insert --other-- after "chemistry" and insert --those-- after "than".

Column 30, line 48, "1034" should read --1074--.

Column 32, line 17, "constructions" should read --construction--; line 48, "35, 37-39" should read --35 and 37-39--.

Column 34, line 15, insert --and-- after "1262,".

MAILING ADDRESS OF SENDER:
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, WI 53202

PATENT NO. 7,157,882

No. of additional copies
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

Mail Date: 04/20/2010

Applicant	: Nova Spivack	: DECISION ON REQUEST FOR
Patent Number	: 7584208	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/720,031	: OF WYETH
Filed	: 11/20/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DR. RICHARD M. KREAM
c/o CHIMERACOM LLC
23RD FLOOR
WALL STREET PLAZA
NEW YORK, NY 10005-1875

COPY MAILED

JAN 30 2007

OFFICE OF PETITIONS

In re Application of :
Kream, Richard M. :
Application No. 10/720,039 : ON PETITION
Filed: November 20, 2003 :
Title: METHOD OF TRANSPORTING A CHIMERIC HYBRID MOLECULE ACROSS THE BLOOD BRAIN BARRIER :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 4, 2006, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

The final Office action mailed on July 6, 2006, placed a shortened statutory period for reply of three (3) months, with an additional three (3) months of extensions of time available under the provisions of 37 CFR 1.136(a). Accordingly, the Response to Office Action submitted with the instant petition is considered timely filed with a two-month extension of time.

The $750.00 petition fee minus the $225.00 two-month extension of time fee will be credited to petitioner's credit card.

This matter is being referred to Technology Center 1600 for examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081103

DATE : November 03, 2008

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7301537

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:

/Ulka Chauhan/
Supervisory Patent Examiner, Art Unit 2628

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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RICHARD STEVEN TRELA
100 PIERCE ST # 1101
CLEARWATER FL 33756

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Richard Steven Tyler :
Application No.10/720,043 :
Filed: November 20, 2003 :
Title of Invention: Anti Terrorist and Homeland :
Security Public Safety Warning System :

ON PETITION

This is a decision on the petition filed January 3, 2005 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

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

This application became abandoned for failure to timely submit a response to the Notice to File Corrected Application Papers "Notice" mailed February 27, 2004. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 27, 2004. A Notice of Abandonment was mailed on December 2, 2004.

Petitioner asserts that the Notice to File Corrected Application Papers mailed on February 27, 2004 was never received.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (1) and (3).

As to item (1), applicant has failed to provide the required corrected application papers.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office 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 have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice 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

---

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

indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice to file Corrected Application Papers may have been lost after receipt rather than a conclusion that the Notice to File Corrected Application Papers was lost in the mail.

Where applicant is pro se applicant should demonstrate what system is in place upon receipt of communication from the USPTO. If applicant retains documents in a central location, makes use of a computer program or calendar such information as well as any accompanying evidence should be provided on renewed petition. A pro se applicant must state that the file was searched and that the communication in question has not been located. The Office is looking for applicant to make a showing that the communication was not lost after receipt.

Petitioner has not presented evidence which would establish non receipt of the Office Communication. On renewed petition, petitioner may wish to describe what if any system is in place for the receipt of mail from the USPTO. As the required showing has not been presented, the petition must be dismissed.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required 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 pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 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 delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 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 C.F.R. § 1.137(b).

A courtesy copy of the Notice of Corrected Application Papers is enclosed for petitioner's convenience.

---

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosures

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APR 20 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard Trela :
Application No.10/720,043 :
Filed: November 20,2003 :
Title of Invention: Anti Terrorist And Homeland :
Security Public Safety Warning System :

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

This application became abandoned for failure to timely submit replacement claims commencing on a separate sheet pursuant to 37 CFR 1.75(h) and 1.121, as required by the Notice to File Corrected Application Papers which was mailed February 27, 2004 and set a two month extendable period for reply. Accordingly, this application became abandoned on April 28, 2004. A Notice of Abandonment was mailed on December 2, 2004. A petition filed under 37 CFR 1.137(a) was dismissed on February 3, 2005.

The requirements for a grantable petition under 37 CFR §1.137(a) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the replacement claims and page 38 of the specification submitted with the petition on March 7, 2005.

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

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Yeadon :
Application No. 10/720,050 : ON PETITION
Filed: November 19, 2003 :
Attorney Docket No. 1/1346 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 8, 2004.

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

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on February 24, 2004. The Notice to Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 24, 2004. A Notice of Abandonment was mailed on November 30, 2004.

Petitioner contends that a reply to the Notice of Missing Parts, was mailed on March 1, 2004. As evidence, petitioner has submitted a copy of the reply which contains a certificate of mailing dated March 1, 2004 pursuant to 37 CFR 1.8. The reply also contains a transmission status report.

The response submitted March 1, 2004 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

A review of the record shows that the record shows that the $130.00 surcharge has not

been charged. Accordingly, deposit account 02-2955 will be charged the fee.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,050	11/19/2003	Michael Yeadon	01-1346	3489

28519 7590 08/18/2009
MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD, CT 06877-0368

EXAMINER
CHONG, YONG SOO

ART UNIT	PAPER NUMBER
1617	

NOTIFICATION DATE	DELIVERY MODE
08/18/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO.e-Office.rdg@boehringer-ingelheim.com

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AUG 1 7 2009

John A. Soop
MILLEN, WHITE, ZELANO & BRANIGAN P.C.
Arlington Courthouse Plaza I, Suite 1400
2200 Clarendon Boulevard
Arlington VA 22201

In re Application of	:
Yeadon	:
Serial No.: 10/720,050	:Decision on Petition
Filed: 19 November 2003	:
Attorney Docket No.: 1/1346	:

This letter is in response to the Petition filed under 37 C.F.R. 1.181 filed on 14 May 2008 requesting withdrawal of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On 21 June 2007, the examiner mailed a restriction requirement in which the original claims 1-34 were divided into 4 groups and an election of species as to a particular dopamine D2-receptor agonsist was required. The groupings are as follows:

> Group I, a composition comprising a dopamine D2-receptor agonist and an anticholinergic according to formula 1.1.1,
> Group II, a method for treating asthma by administering the composition of Group I
> Group III, a method for treating COPD by administering the composition of Group I
> Group IV, a method for treating an obstructive airway disease by administering the composition of Group I.

On 21 August 2007, Applicants elected Group I-A, the composition comprising a dopamine D2-receptor agonist listed in claim 3a or 4 with traverse. Claims 1-4, 6-10, 20-24 and 26-34 read upon the elected invention.

On 29 October 2007, the examiner considered the traversal. The examiner withdrew claims 5 and 11-19 as being directed to non-elected inventions. Claims 1-4, 6-10, 20-34, as originally presented, were then subject to a second restriction requirement, requiring applicants to elected one of the 27 separate dopamine D2 receptor agonists recited in the alternative of claim 3 or 4, for example.

On 29 November 2007, Applicants elected Group I-A, the composition comprising a dopamine D2-receptor agonist pramipexole with traverse.

On 14 February 2008, the examiner considered the traversal and made the restriction requirement FINAL. Claims 5, 11-19, 25 and 32 were withdrawn from examination as being directed to non-elected inventions. Claims 1-4, 6-10, 20-24, 26-31, 33 and 34 were examined "to the extent they read upon the elected invention and species" and rejected as follows:

> Claims 1-4, 6-10, 20-24, 26-31, 33 and 34 were rejected under 35 U.S.C. 112 2nd paragraph.
>
> Claims 1, 2-4 (in part), 6-10, 20-22, 23-24 (in part), 26-31, 33 and 34 were rejected under 35 USC 103(a) as being unpatentable over Banerjee et al.

On 14 May 2008, applicants filed a response to the Office action and this petition to request that the Office withdraw the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered.

MPEP 803 states:

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

MPEP 806.04(f) provides the following guidance for 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.

(a) Concerning the Discrepancy between the scope of Claim 1 and the description of the Groups in the original restriction requirement.

Claim 1 is set forth below:

> **1. (Currently Amended)** A composition comprising an active agent wherein the active agent consists of *(I)* a dopamine D2-receptor agonist, and *(II)* an anti-cholinergic agent ~~comprising a member~~ selected from the group consisting of tiotropium, ~~and~~ a pharmaceutically acceptable ~~salts~~ salt thereof, ~~anions,~~ ~~isomers~~ an isomer thereof, ~~isotopes~~ an isotope thereof, ~~polymorphs~~ a polymorph thereof, ~~hydrates~~ a hydrate thereof and ~~solvates~~ a solvate thereof, in an effective therapeutic amount to treat inflammatory disease or obstructive airways disease.

Group I was described in the original restriction requirement as

> I. **Claims 1-11, 20-34 are drawn to a composition comprising a dopamine D2-receptor agonist and an anti-cholinergic according to formula (1.1.1), classified in 514/256.**

Limiting Group I to a specific type of tioproium which is not recited in Claim 1 is improper, in view of MPEP 818 which states

> Applicant must make his or her own election; the examiner will not make the election for the applicant. 37 CFR 1.142, 37 CFR 1.143.

Group I will be examined to the extent it reads upon a anti-cholinergic agent selected from the group consisting of tiotropium, a pharmaceutically acceptable salt thereof, an isomer thereof, an isotope thereof, a polymorph thereof, a hydrate thereof, a solvate thereof. The scope of Group II/III/IV will also be corrected herein.

(b) Concerning the requirement to elect a single dopamine D2-receptor agonist

In the first restriction requirement, the examiner required applicant to elect a single species of disclosed dopamine D2-receptor agonist listed in claim 3a or 4.

3. **(Original)** The composition according to Claim 1 wherein the dopamine D2-receptor agonist is a member selected from the group consisting of:

(a) alentemol; apomorphine; biperiden; bromocriptine; cabergoline; carmoxirole; ciladopa; dopexamine; fenoldopam; ibopamine; levodopa; lisuride; methylenedioxypropylnoraporphine; naxagolide; *N*-allylnoraporphine; pergolide; pramipexole; propylnorapomorphine; protokylol; quinagolide; quinpirole; ropinirole; roxindole; talipexole; terguride; trihexyphenidyl; and trihydroxyaporphine; and salts and combinations thereof;

Applicants elected pramipexole with traverse. The petition points to the following text in MPEP 803.02 concerning election of species of dopamine D2-receptor agonists

> ...when the Markush group occurs in a claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property.

Applicants are correct that the types of claims filed in the instant application are not "improper Markush claims." The Office has not rejected the claims under 35 USC 112, second paragraph (or under any other statute) for being an improper Markush claim. However, in the Office action mailed 25 February 2008, the examiner has improperly limited the scope of the claims under examination by stating that the claims are examined insofar as they read upon the elected invention and species. This is incorrect, per MPEP 809:

> The linking claims must be examined with, and thus are considered part of, the invention elected....Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions.

Applicants also request that the examiner extend the search and examination of the Markush claims. In response, it is noted that MPEP 803.02 sets forth guidance concerning the examination of examination required for Markush claims such as the ones filed here:

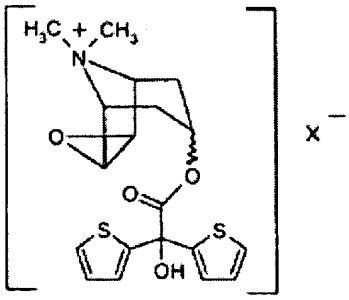
> In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. An examiner should set forth a requirement for election of a single disclosed species in a Markush-type claim using form paragraph 8.01 when claims limited to species are present or using form paragraph 8.02 when no species claims are present. See MPEP § 808.01(a) and § 809.02(a). Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims

drawn to species patentably distinct from the elected species held withdrawn from further consideration.

(c) Concerning the restriction requirement amongst Groups II, III and IV.

In the original restriction requirement, the examiner divided the method of treatment claims up into three groups, with Claims 12-19 being placed in all three groups. Claim 12, set forth below, is broader in scope than the sum of the divisions of Groups II, III and IV, because Claim 12 encompasses treatment of inflammatory diseases other than asthma (Group II), COPD (group III) and obstructive airway diseases other than asthma or COPD (Group IV).

12. A method for the treatment of obstructive airways or other inflammatory diseases in a mammal comprising administering to the mammal a therapeutically effective amount of a composition comprising *(I)* a dopamine D2-receptor agonist and *(II)* an anti-cholinergic agent comprising a compound of Formula (1.1.1):



(1.1.1)

wherein X^- is a physiologically acceptable anion.

MPEP 806 sets forth the following general principle relating to distinctness be summarized as

(B) Where inventions are related as disclosed but are distinct as claimed, restriction may be proper.
(C) Where inventions are related as disclosed but are not distinct as claimed, restriction is never proper.

MPEP 806.03 sets forth following guidance on distinction:

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.

Because the sum of the groups is less than the scope of the grouped claims, the restriction amongst Groups II, III and IV is improper.

(d) Concerning the restriction requirement between product of Group I and the process of treatment (rejoined Groups II, III and IV)

MPEP 806.05(h) provides the following guidelines on establishing distinction between product and process of using.

> A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.
>
> The burden is on the examiner to provide an example, but the example need not be documented.

In this instance, the examiner stated that the product and process of use were distinct because environmental management to avoid asthma triggers and an established drug regimen including bronchodialators may be used to treat asthma. This line of reasoning is incorrect.

MPEP 806.01 explains how one must compare the *claimed* subject matter:

> In passing upon questions of double patenting and restriction, it is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence.

Here, the process invention *as claimed* requires the product of Group I and does not encompass the alternatives suggested by the examiner (environmental management to avoid asthma triggers and an established drug regimen including bronchodialators). This alternative use is not viable.

MPEP 806.05(h) goes on to states that if "the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement." In this instance, the product of Group I and the process of Group II/III/IV are distinct because the product *as claimed* can be used in a method which is materially different from treatment, such as in vitro product safety testing. For this reason, the restriction requirement between Group I and Groups II/III/IV is maintained.

It is noted that should all claims to the elected product invention become allowable, the examiner will reconsider rejoinder of the process claims per MPEP 821.04 and 821.04(b).

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

Group I is no longer limited to the anti-cholinergic according to Formula 1.1.1. Group I is now defined as a composition comprising a dopamine D2-receptor agonist and a anti-cholinergic agent selected from the group consisting of tiotropium, a pharmaceutically acceptable salt thereof, an isomer thereof, an isotope thereof, a polymorph thereof, a hydrate thereof, a solvate thereof.

The restriction requirement amongst Groups II, III and IV is withdraw.

Group II/III/IV is no longer limited to a method of administering a composition comprising the anti-cholinergic according to Formula 1.1.1. Group II/III/IV is now defined as a method of administering a composition comprising composition comprising a dopamine D2-receptor agonist and a anti-cholinergic agent selected from the group consisting of tiotropium, a pharmaceutically acceptable salt thereof, an isomer thereof, an isotope thereof, a polymorph thereof, a hydrate thereof, a solvate thereof.

The restriction requirement among Group I and now rejoined Groups (II, III and IV) is maintained in view of the new reasons provided herein for distinction. Rejoinder between the process and product claims is premature the fact that not all claims to the elected product invention are in condition for allowance.

The indication that claims would only be examined to the extent that they read upon the elected invention and elected species has been withdrawn.

The application will be forwarded to the examiner for consideration of the papers filed 14 May 2008 and for preparation of an Office action consistent with this decision.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Michael Wityshyn
Acting Director, Technology Center 1600

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KONSTANTIN MELAMED
SYMBIO WARE, LLC
SUITE 131
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WALNUT CREEK, CA 94598

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Konstantin Melamed et al	:	
Application No. 10/720,055	:	DECISION ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. SYBM-001UTL	:	

This is a decision on the petition, filed April 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 28, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 29, 2006.

Petitioner asserts that the Notice dated November 29, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner' 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 fails to satisfy 2 and 3 of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of November 29, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

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).

The $750 "unintentional" petition under 37 CFR 1.137(b) fee was received on April 30, 2007. If Petitioner does not file a petition under 37 CFR 1.137(b), the petitioner may request a refund of this fee by writing to Mail Stop 16, Refund Requests. A copy of this decision should accompany petitioner's request.

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

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

By 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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of
Konstantin Melamed et al
Application No. 10/720,055
Filed: November 25, 2003
Attorney Docket No. SYMB-001UTL

ON PETITION

CORRECTED DECISION

This is a decision on the petition filed April 30, 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 November 29, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 1, 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.

The decision mailed August 29, 2007 is hereby vacated as of the mail date of this decision.

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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AUG 28 2007

OFFICE OF PETITIONS

In re Application of :
Schang-Jing Hon et al :
Application No. 10/720,063 :
Filed: November 25, 2003 :
Attorney Docket No. BHT-3244-10 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 9, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed October 7, 2005. Accordingly, the date of abandonment of this application is January 10, 2006. A Notice of Abandonment was mailed on July 19, 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 $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of:	:	
Drocco	:	
Filed: 25 November, 2003	:	DECISION ON PETITION
Application No. 10/720,139	:	
Docket No. Q78175	:	

This is a decision on the petition filed on 20 May, 2004, under 37 C.F.R. §1.53 as a request that the application obtain a filing date of 25 November, 2003, for page numbered 1 (specification: description and claims) of the application.

The Office regrets the delay in addressing this matter.

The petition under 37 C.F.R. §1.53 is **GRANTED**, and the petition fee ($130.00) is refunded to Deposit Account 19-4880.

BACKGROUND

This nonprovisional application was deposited on 25 November, 2003.

On 23 March, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," and indicated that, while a filing date had been granted, "Page(s) 1 of the specification (description and claims)" appeared to have been omitted from the application.

Petitioner responded with a petition on 20 May, 2004, along with, *inter alia*, a copy of the "Page(s) 1 of the specification (description and claims)," and a copy of the date-stamped (25 November, 2003) receipt card indicating, *inter alia*, that the following items had been received by the Office:

* * *

Pgs. Spec/Abs: 18
Claims 14

* * *

As is clear from the foregoing, the receipt card (see: MPEP §503[1]) did not specify the pages containing the Specification, Claims and Abstract, however, a review of the record indicates that the Description is contained in pages 1 through 14, the 14 Claims in pages 15 through 17, and the Abstract page 18–for a total of 18 pages–and of the pages present in the record (2 through 18), there are no duplicate pages.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the page 1 of the specification (description, claims (and abstract)) of the application was submitted on 25 November, 2003, and subsequently was misplaced in the Office.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; and the Notice mailed on 23 March, 2004, hereby is withdrawn as to page 1 of the specification (description, claims (and abstract)) of the application.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 25 November, 2003, using:

1. pages 2 - 18 (Specification, Claims, Abstract, and 11 sheets of drawings, deposited on 25 November, 2003; and

2. page 1 (Specification: description, claims, abstract), deposited on 20 May, 2004;

3. with direction to OIPE to correct Office records to reflect that 18 pages of specification (description, claims and abstract) and 11 sheets of drawings were present on filing on 25 November, 2003, and forward to Petitioner a corrected filing receipt setting forth a filing date of 25 November, 2003, reflecting therein that 18 pages of specification (description, claims and abstract) and 11 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

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

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

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SUITE 800
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Alain Poiraud :
Application No. 10/720,278 : DECISION ON PETITION
Filed: November 25, 2003 :
Attorney Docket No.: :
2937-115 :
Title: ASYMMETRICAL UNBALLASTED :
ANCHOR :

This is a decision on the petition filed March 10, 2004, requesting that the above-identified application, including page 8 of the specification, be accorded a filing date of November 25, 2003 as part of the original disclosure.

The application was deposited on November 25, 2003. However, on February 25, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (notice)", stating that the application had been accorded a filing date, and advising applicants that page 8 of the specification appeared to have been omitted.

In response, on March 10, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Page 8 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "Specification, Claims and Abstract - 10" in the United States Patent and Trademark Office (Office) on November 25, 2003. Applicants request that page 8 of the specification be accorded a filing date of November 25, 2003.

It is noted that seven pages of specification, one page of claims, and a one page abstract have been located in the electronic file.

Upon review of the record, the above-mentioned page has not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 25, 2003 included Page 8 of the specification, and this sheet was subsequently misplaced in the Office.

Therefore, the application, including Page 8 of the specification, was complete on filing and entitled to a filing date of November 25, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed February 25, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 has not been charged to Petitioner's Deposit Account.

The application file is being returned to OIPE for further processing with a filing date of November 25, 2003, using the original application papers filed on that date, as well as Page 8 of the specification submitted on March 10, 2004, and for noting in Office records that this sheet was present on filing.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

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

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SUITE 370
ALEXANDRIA VA 22314

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MAY 1 2 2005
Technology Center 2100

In re Application of: Kaneda et al.
Application No. 10/720,308
Filed: November 25, 2003
For: DATA STORAGE SYSTEM, DATA STORAGE APPARATUS, COMPUTERS AND PROGRAMS

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

This is a response to the petition filed February 23, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, petitioner 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 regular turn. In those instances where a request is defective in one or more respects, petitioner 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 renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed February 23, 2005 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the referenced documents. The Petitioner's detailed discussion does not specify the features of claims 8, 10 and 12 that define over the references cited. Note, the recitation of **the managing unit that specifies a storage volume to be accessed based on an access request from a computer to a virtual drive unit and volume management information** has not been set forth in claims 8, 10 or 12. Furthermore, the features are also not clearly specified in claims 11 and 13; since, claim 11 specifies a "function for specifying..." and claim 13 indicates "specifying said storage volume to be accessed..." instead of the bold features above, which are argued by the Petitioner as features not taught by each of the references. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from each reference provided in requirement (d) above. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable over the references.** Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is

specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

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

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

Brian L. Johnson
Special Program Examiner 5/3/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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JAN 25 2006

TECHNOLOGY CENTER 2100

In re Application of: Kaneda, et al.
Application No. 10/720,308
Filed: November 25, 2003
For: DATA STORAGE SYSTEM, DATA STORAGE APPARATUS, COMPUTERS AND PROGRAMS

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

This is a decision on the Request for Reconsideration filed July 12, 2005 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on February 23, 2005 and dismissed on May 12, 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ON PETITION

In re Application of
George J. Matthews
Application No. 10/720,341
Filed: November 25, 2003
Attorney Docket No. 5377-002-27

This is a decision on the petition under 37 CFR 1.137(b)[1], filed July 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed December 12, 2006. A response was filed June 12, 2007 with a three month extension of time request, but by Advisory Action of June 22, 2007, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed June 27, 2007.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3764 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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AUG 06 2008

In re Application of
Yong Suck Park
Application No. 10/720,345
Filed: November 25, 2003
Attorney Docket No. 0465-1087P

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 24, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 24, 2007. Accordingly, the date of abandonment of this application is July 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The Office acknowledges receipt of $12 for four (4) advanced order soft copies filed on October 19, 2007

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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P.O. BOX 221200
CHANTILLY, VA 20153

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OFFICE OF PETITIONS

In re Application of :
Jae Sung Kim et al :
Application No. 10/720,385 : ON PETITION
Filed: November 25, 2003 :
Attorney Docket No. K-0196A :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 29, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

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TAKEUCHI & KUBOTERA, LLP
200 DAINGERFIELD ROAD,
SUITE 202
ALEXANDRIA, VA 22314

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AUG 2 5 2006

OFFICE OF PETITIONS

In re Application of Miyake :
Application No. 10/720,389 : Decision on Petition
Filing Date: November 25, 2003 :
Attorney Docket No. H-0303T :

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Office action mailed December 28, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 29, 2005. A Notice of Abandonment was mailed on September 19, 2005.

The instant petition requests revival of the application.

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

Technology Center Art Unit 2833 will be informed of the instant decision and the application, including the RCE and other papers filed October 6, 2005, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OCT 18 2006

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THOMAS A. LADD
BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET, SUITE 2700
INDIANAPOLIS, IN 46204

In re Application of
LEE et al
Serial No. : 10/720,424
Filed : 24 NOVEMBER 2003
Attorney Ref No. : NEIT0018

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on 31 July 2006, to review the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on 24 November 2003 with 19 claims.

On 12 January 2006, the examiner required restriction between Group I, product claims 1-12 and 19 and Group II, process claims 13-18. Applicants elected Group I directed to products and is not currently traversing the restriction requirement between product and process inventions.

The restriction requirement mailed 12 January 2006 also required that should Group I or Group II be elected, applicants must then elect of a single pair of primers for examination. Applicants elected the primer pair of SEQ ID No 1 and 8 with traverse. It is this requirement to elect a single primer pair that is now being petitioned.

On 23 March 2006, the examiner mailed an Office action on the merits to applicants in which the traversal was considered but deemed not persuasive. The restriction requirement was made final. Claims 13-18 were withdrawn from examination as being directed to non-elected inventions. Claims 5-12 of Group I were withdrawn as being directed to non-elected primer pairs. Claims 1-4 and 19 were examined with regard to primer pair SEQ ID No 1 and 8.

Claims 1-3 were rejected under 35 USC 102(b) as being anticipated by Brennen.
Claims 1, 2, 3, 4 and 19 were rejected as being unpatentable under 35 USC 103(a) over Gravitt et al, taken in view of Chan et al and Gelfand et al.

DISCUSSION

The application, file history and petition under 37 C.F.R. 1.144, to request review of the restriction requirement has been considered.

The claims are directed to general primers and general primer pairs that amplify and detect Human Papillomavirus (HPV) genotypes which is an oligonucleotide selected from the group consisting of SEQ ID Nos 1-14, or sequences which are fully complementary to SEQ ID Nos 1-14.

Although all the primers amplify a HPV genotype, there are many varying HPV genotypes such that the primers are functionally diverse. Each primers and primer pairs are specific a particular set of genotypes. Thus one primer cannot be substituted for another to get the same effect. For example, the elected primer pair amplifies HPV genotype 1a which is not amplified by primer pairs of SEQ ID No 3 and 10, 4 and 11, 5 and 12, 6 and 13, or 7 and 14. Similarly, the elected primer pair amplifies HPV genotype 2a which is not amplified by primer pairs of SEQ ID Nos 4 and 11.

Moreover, the primers are structurally diverse. A comparison of SEQ ID No 1, 2 and 3, set forth below, shows no significant sequence homology among the primers. A search and examination of each sequence would require a separate query of the appropriate and numerous nucleic acid databases.

<400> 1

gatggtgata tggtagatac aggatttgg 29

<400> 2

ggcgatatgg ttgatacagg ctttg 25

<400> 3

gcacaactat ttaataagcc atattgg 27

A review of the sequence listing shows that some of the sequences are not fully defined in the sequence listing. For example, in SEQ ID No 7, the "n" at position 15 and 21 may be a, c, g or t. The "y" at position 22 may be cytosine or thymine. A search query directed to a partially defined sequence often results in a larger volume of pertinent prior art that requires additional time and effort to review and analyze, this adding to the search and examination burden.

<400> 7

gaggtgggcc ggggncarcc nyt 23

Moreover, all of the sequences are less than 40 nucleotides in length. Such short nucleic acid sequences are often more burdensome to search and examine than longer, more fully defined sequences, because a query directed to a shorter sequence often results in a larger volume of pertinent art which needs to be reviewed and analyzed. Sequences claimed in open terms or functional language, such as "complementary to" also present additional search and examination burden as these phrases read upon fragments and sequences which show only partial alignments.

Applicants argue that the examination of more than one sequence would not be an undue burden on the examiner on the basis that "...to aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et. seq* and permit a reasonable number of sequences to be claimed in a single application...normally ten sequences..." See MPEP 803.04.

Applicants reference to the U.S. Patent and Trademark Office policy regarding the examination of patent applications that claim large numbers of nucleotide sequences in the Official Gazette, 1192 O.G. 68 (November 19, 1996) is acknowledged, however, not found persuasive on the basis that this policy regarding the partial waiving of the requirements of 37 CFR 1.141 is such that it will permit a reasonable number of nucleotide sequences to be claimed in a single application. Under the policy, up to 10 independent and distinct nucleotide sequences will be examined in a single application without restriction. The waiver is permissive and not a requirement. The waiver went into effect in 1996, well before the exponential growth of the nucleic acid databases. The present restriction requirement conforms with this policy as it has required that the application be restricted to a pair of sequences. One primer pair, comprising two sequences, is within the range of up to ten.

DECISION

For these reasons, the petition under 37 C.F.R. 1.144 to request rejoinder of ten primers having SEQ ID Nos 1, 2, 3, 4, 6, 8, 9, 10, 11 and 12 is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to consider the response filed on 23 August 2006.

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.

George Elliott
Director, Technology Center 1600

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

Mail Date: 04/20/2010

Applicant	: Tom Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7650644	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/720,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1201** 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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BERGHOFF,LLP
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SUITE 3100
CHICAGO IL 60606

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
James McSwiggen et al	:	
Application No. 10/720,448	:	DECISION GRANTING PETITION
Filed: November 24, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 03-465-B	:	
(400.138)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures of Febarury 22, 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 the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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909 RIVER ROAD
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OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Boyd, et al.	:	
Application No. 10/720,462	:	DECISION ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 7052-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2009. Accordingly, the date of abandonment of this application is March 3, 2010. The Notice of Abandonment was mailed March 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Suntisuk Plooksawasdi	: DECISION ON REQUEST FOR
Patent Number	: 7624556	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/720,473	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1162** 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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PATRICIA M. COSTANZO
PATS PENDING
P.O. BOX 101
ELMA, NY 14059

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OFFICE OF PETITIONS

In re Application of	:	
Antoni Zawadzki, et al.	:	
Application No. 10/720,497	:	DECISION ON REQUEST
Filed: November 24, 2003	:	TO WITHDRAW
Attorney Docket No. ZawadzkiA_P_1_03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 29, 2006.

The request is **APPROVED**.

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

The request was signed by Patricia M. Costanzo on behalf of herself and all the attorneys of record who are associated with Customer No. 34442.

All attorneys/agents associated with the Customer Number 34442 have been withdrawn. Accordingly, there is no attorney of record at this time.

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

There is an outstanding Office action mailed January 23, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: DB

cc: Mr. Antoni Zawadzki
18 Hirschbeck Street
Buffalo, NY 14212

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Mailed: 4/21/05

dss
Paper Number _____

In re application of :
Lomax Jr. : DECISION ON
Serial No. 10/720,517 : PETITION
Filed: November 25, 2003 :
For: HIGH RECOVERY PSA CYCLES AND APPARATUS
WITH REDUCED COMPLEXITY :

This decision is in response to the PETITION UNDER 37 C.F.R. 1.181 filed November 12, 2004. Applicants are requesting consideration of the Information Disclosure Statement(IDS) filed May 26, 2004.

DECISION
The submission has been reviewed and it is found to be in compliance with the requirements as set forth in 37 CFR 1.97.
However, upon review of the file, the examiner has already considered the Information Disclosure Statement filed May 26, 2004 in the Office Action mailed February 17, 2005. Accordingly, the petition is now moot.

The petition is Dismissed.

Jacqueline Stone
Director, Technology Center 1700

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

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OFFICE OF PETITIONS

In re Application of

Kaustubh Phaltankar

Application No. 10/720,519

Filed: November 25, 2003

Attorney Docket No. WMA-98-004D1

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 5, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 18, 2008. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on July 20, 2008. A Notice of Abandonment was mailed on August 15, 2008.

The issue fee and publication fee were received on October 3, 2008.

Form PTOL-85B, filed October 3, 2008, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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OFFICE OF PETITIONS

In re Application of
Anwu Li
Application No. 10/720,529
Filed: November 25, 2003
Attorney Docket No. M596 0008

ON PETITION

This is a decision in response to the petition, filed August 24, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed July 6, 2005. A Notice of Abandonment was mailed on March 17, 2006. In response, on August 24, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 1725 for consideration of the amendment filed August 24, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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299 EAST SIXTH STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of
Gurusamy Manivannan, et al.
Application No. 10/720,531
Filed: November 25, 2003
Attorney Docket No. 00216-602002 / T-716A

ON PETITION

This is a decision in response to the petition, filed April 8, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 8, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 9, 2008. A Notice of Abandonment was mailed on March 13, 2009. On April 8, 2009, the present petition was filed.

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

This application is being referred to Technology Center AU 1614 for appropriate action by the Examiner in the normal course of business on the reply received April 8, 2009.

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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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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OFFICE OF PETITIONS

In re Application of	:	
Sudor, Jan	:	
Application No. 10/720,532	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. G-090US04DIV	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center 1700 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

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CINCINNATI, OH 45202

In re Application of	:	
John Lee HAMMONS, et al	:	
Application No. 10/720,557	:	DECISION ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 9130M	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2008, to revive the above-identified application.

The petition is **DISMISSED** as moot.

A review of the record indicates the Notice of Abandonment mailed October 2, 2008, was withdrawn by the Office on November 4, 2008. The response filed on September 29, 2008, has been acknowledged. Accordingly, the petition is dismissed as moot and the petition fee of $1620 will be refunded to Deposit Account No. 16-2480.

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

This application is being referred to Technology Center AU 3761 for appropriate action by the Examiner in the normal course of business on the reply received September 29, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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986 BEDFORD STREET
STAMFORD, CT 06905-5619

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
AMLING et al	:	
Application No.: 10/720,571	:	DECISION ON PETITION
Filing Date: November 24, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 02580-P0056C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 5, 2006, which set a three month shortened statutory period for response. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on September 6, 2006.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, the proposed response would not place the cased in condition for allowance. See the attached Advisory Action (Form PTOL-303).

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 reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

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

By mail: Mail Stop 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 Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Advisory Action (Form PTOL-303)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/720,571	Applicant(s) AMLING ET AL.
	Examiner John P. Leubecker	Art Unit 3739

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

THE REPLY FILED 24 January 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 ___months from the mailing date of the final rejection.

b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on ___. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) They raise the issue of new matter (see NOTE below);
   (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: ___. (See 37 CFR 1.116 and 41.33(a)).
4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): ___.
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: *41-51 and 53-58*.
   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: Applicant's arguments are not persuasive.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). ___
13. Other: See continuation sheet.

John P. Leubecker
Primary Examiner
Art Unit 3739

Continuation of 13. Other: The purposed claims will be entered upon appeal because the only change is the cancellation of claim 52, which was previously rejected under 35 USC 112, second paragraph. All other claims (41-51 and 53-58) are identical to those at the time of issuance of the Final Rejection dated June 5, 2006 and would be rejected using the same prior art and grounds of rejection found in the Final Rejection.

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
AMLING et al	:	
Application No.: 10/720,571	:	DECISION ON PETITION
Filing Date: November 24, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 02580-P0056C	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 5, 2006, which set a three month shortened statutory period for response. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on September 6, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed June 5, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3739 for appropriate action on the reply in due course.

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-2-07

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/720575 Patent No.: 7100919

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

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

Please check claims

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

WILLIAM M. PIERCE
PRIMARY EXAMINER

SPE

3711
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,100,919

APPLICATION NO.: 10/720,575

ISSUE DATE : September 5, 2006

INVENTOR(S) : Perry B. Stasi

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

At Column 8, Claim 1 is amended as follows:

1. An apparatus for a proposition bet of Craps comprising:

a Craps table lay-out having a periphery, said Craps table lay-out comprising a pass line bet area, a point numbers area and a proposition bet area located at a central portion of said Craps table lay-out; said Craps table lay-out further comprising:

a plurality of mutually spaced player betting areas, <u>each player betting area of said plurality of betting areas comprising a player betting area indicia, said player betting area indicia comprising a predetermined symbolic identifier</u> uniquely identified for the proposition bet, said plurality of player betting areas being located between generally said pass line bet area and said periphery of said Craps table layout, each player betting area of said plurality of player betting areas being respectively located at a player play position of said Craps table lay-out; and

a plurality of wager areas, each wager area of said plurality of wager areas <u>comprising a wager area indicia, said wager area indicia comprising said predetermined symbolic identifier</u> ~~corresponding to a respective player betting area~~ of said plurality of player betting areas <u>uniquely identified for the proposition bet</u>, said plurality of wager areas being all located adjacent said proposition bet area.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Peter D. Keefe
24405 Gratiot Ave.
Eastpoint, MI 48021

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

JAN 1 - 9 2007

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HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/720,579	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 1772-5	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 1795 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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DRW 10-04

PERKINS, SMITH & COHEN LLP
ONE BEACON STREET
30TH FLOOR
BOSTON MA 02108

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:
Dovner et al.	: DECISION DISMISSING
Application No. 10/720,595	: PETITION AS MOOT
Filed: 24 November, 2003	:
Attorney Dkt No. 6353-102	:

This is a decision on the petition, filed under 37 CFR 1.10(c) on 2 January, 2004, requesting that the above-identified application be accorded a filing date of 24 November, 2003.

A review of the Office PALM records reveals that this application was previously accorded a filing date of 24 November, 2003.

As the application has been accorded a filing date of 24 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 records.

No petition fee is due and none has been charged.

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

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

cf: Filing Receipt

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Robert Reynolds	: DECISION ON REQUEST FOR
Patent Number	: 7645283	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/720,598	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1286** 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 2 6 2004
PATENT & TRADEMARK OFFICE

Paper No. 3

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

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OFFICE OF PETITIONS

In re Application of :
Das Gupta et al. :
Application No. 60/414,550 : DECISION GRANTING PETITION
Filed: 15 August, 2003 :
Attorney Docket No. 11472/5 :

This is a decision on the petition under 37 CFR 1.10(e)[1] filed on 1 April, 2004, requesting that the above-identified provisional application be accorded a filing date of 15 August, 2003.

Petitioners allege that the application was deposited in "Express

---

[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(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";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Mail" service with the U.S. Postal Service on 15 August, 2003. In support, petitioner provided a copy of the Express Mail Customer Label No. EL835293006US, showing a Date-in of "8-15-03". The same Express Mail receipt number was referred to on the itemized Provisional Application Transmittal sheet submitted with the present petition. Petitioners have provided a copy of 59 pages of specification (including one (1) page of abstract and one title page), and 15 sheets of drawings.

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.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 15 August, 2003.

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

The application will be processed with a filing date of 15 August, 2003, using the copies of the application papers supplied with the present petition.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 15 August, 2003, using the application papers supplied with the present petition.

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

---

[2] MPEP 513.

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AUG - 9 2006

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

In re Application of	:
Lei Yao	: PETITION TO MAKE SPECIAL
Serial No.: 10/720,603	:
Filed: November 24, 2003	:
Attorney Docket No.: 51282-00013	

This is in response to the petition filed June 15, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Chakrabarty et al.	:	DECISION ON PETITION
Application No. 10/720,603	:	TO WITHDRAW
Filed: November 24, 2003	:	FROM RECORD
Attorney Docket No. 14PR-129251	:	

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 31, 2005.

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

A review of the file record indicates that on February 2, 2006 the power of attorney to Brinks Hofer Gilson & Lione was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Don J. Pelto
Sheppard, Mullin, Richter & Hampton LLP
1300 I Street, NW
11th Floor East
Washington DC 20005

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SEP - 3 2004

In re Application of Billiet et al. Serial Number: 10/720,613 Filed: November 17, 2003 For: METHOD FOR BINDER EXTRACTION AND SINTERING OF GREEN BODIES IN A STATE OF WEIGHTLESSNESS	:	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed June 26, 2004, 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 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

ROM L. BILLIET
135A MALACCA STREET
PENANG 10400 MY MALAYSIA

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Washington, DC 20231

1/14/08

Patent No. :7055783B2
Inventor(s) : Frank Rosemann et al.
Issued : 6/6/06
Title : FASTENING DEVICE FOR AN ELONGATED OBJECT IN PARTICULAR A CABLE TREE
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [56], is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

CHRISTOPHER M. BROCK
HARNESS DICKEY & PIERCE P.L.C.
P.O. BOX 828
Bloomfield Hills, Michigan 48303

HR/CBN

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OFFICE OF PETITIONS

In re Application of	:	
Rajagopalan et al.	:	
Application No. 10/720,633	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 03-1021	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

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 23, 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 24, 2004.

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

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

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

The instant petition lacks item (1). Petitioner stated in the instant petition that a Supplemental Declaration and Power of Attorney were enclosed. However, after a review of all the documents received with the instant petition, it does not appear the above documents were received. Further, it is not clear whether petitioner has fully responded to the Notice mailed on February 23, 2004. Figures 6A and 6B as described in the specification were omitted from the application.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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

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

VERIZON CORPORATE SERVICES GROUP INC.
C/O CHRISTIAN R. ANDERSEN
600 HIDDEN RIDGE DRIVE
MAILCODE HQEO3H14
IRVING TX 75038

COPY MAILED

APR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Rajagopalan et al.	:	
Application No. 10/720,633	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 03-1021	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed April 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ELDON WILLIAM BISHOP
9033 SHELBYVILLE HIGHWAY
BELL BUCKLE TN 37020

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JAN 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Bishop, Eldon William	:	
Application No. 10/720,637	:	ON PETITION
Filed: November 4, 2004	:	
Title: MOWING DEVICE	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 12, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 18 2005

In re Application of	:	
Frederick N. Biesecker et al.	:	
Serial No. 10/720,678	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO MAKE SPECIAL
For: CLOSURE FOR A CONTAINER	:	

Applicant's petition, filed February 24, 2005, 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. R. Kazenske, Director
Technology Center 3700

Martin G. Belisario
Akin, Gump, Strauss, Hauer & Feld, LLP
2005 Market St., Suite 2200
One Commerce Square
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 27 2005

In re Application of	:	
Frederick N. Biesecker et al.	:	
Serial No. 10/720,678	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO MAKE SPECIAL
For: CLOSURE FOR A CONTAINER	:	

Applicant's petition, filed February 24, 2005, 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.

Richard A. Bertsch, Director
Technology Center 3700

Martin G. Belisario
Akin Gump Strauss Hauer & Feld, LLP
2005 Market Street, Suite 2200
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date: 04/28/10

Patent No. : 7548522 B2
Ser. No. : 10/720,701
Inventor(s) : JWA, JEONG-WOO
Issued : 06/16/09
Title : **ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING WIRELESS COMMUNICATION OPERABLE ON FREQUENCY SELECTIVE CHANNEL, AND CHANNEL COMPENSATION METHOD**
Docket No. : **038779/271570**

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 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

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

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Bayer Health Care LLC
400 Morgan Lane
West Haven CT 06516

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Dumas, et al. :
Application No. 10/720,702 : ON PETITION
Filed: November 24, 2003 :
Attorney Docket No. 5052D1 :
For: SUBSTITUTED PYRIDINES AND PYRIDAZINES WITH ANGIOGENESIS INHIBITING ACTIVITY

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed July 26, 2007, which set a one month or thirty day (whichever was longer) shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on August 27, 2007. No Notice of Abandonment has been mailed.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 1621 for consideration of the election filed on February 25, 2008.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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25TH FLOOR
CHICAGO, IL 60606

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Manabu Sawasaki, et al.	:	
Application No. 10/720,706	:	DECISION GRANTING PETITION
Filed: November 24, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1324.68723	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 3, 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 May 11, 2010 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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-1-07

TO SPE OF : Technology Center 2835

10/720713

SUBJECT : Request for Certificate of Correction on Patent No.: 7085132 B2

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

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

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

Thank You For Your Assistance

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

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

Comments:

CORRECTION APPROVED (C + C filed 6/27/07)

A.Q. EDWARDS

JAYPRAKASH GANDHI
SUPERVISORY PATENT EXAMINER

2835

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Vierra Magen Marcus & DeNiro LLP
575 Market Street, Suite 2500
San Francisco, CA 94105

Mail Date: 04/21/2010

Applicant	: Adam G. Wolff	: DECISION ON REQUEST FOR
Patent Number	: 7584462	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/720,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 6,863,826	:	
Issue Date: March 08, 2005	:	
Application No. 10/720,761	:	DECISION ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. **37809-0022**	:	

This is a decision on the petition under 37 CFR 1.378(b), filed May 04, 2009, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item **(1)** above.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

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.

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

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

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

The centralized facsimile number is (571) 273-8300.

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

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE,
7TH FLOOR
SAN DIEGO CA 92122

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NOV 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,863,826	:	
Issue Date: March 08, 2005	:	
Application No. 10/720,761	:	DECISION ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. 37809-0022	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 07, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 08, 2009 for failure to pay the three and one-half maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HAROLD TAVAREZ
2501 EAST 4TH STREET #2
LONG BEACH, CA 90814

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JUL 17 2007

OFFICE OF PETITIONS

In re Application of
Harold Ariel Tavarez
Application No. 10/720,768
Filed: November 24, 2003
Title of Invention: **INERTIAL PROPULSION DRIVE**

ON PETITION

This is a decision on the petition filed July 10, 2007 to with draw the holding of abandonment, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned on May 11, 2004 after the applicant failed to file a timely response to the Notice to File Missing Parts mailed March 9, 2004. Accordingly, a Notice of Abandonment was mailed June 1, 2006.

Petitioner, argues that the office action mailed March 9, 2004 was not received.

A review of the file reveals that the Notice to File Missing Parts was mailed to the address of record on March 9, 2004, the same address to which the Notice of Abandonment was mailed. There doesn't appear to have been any irregularity in the mailing of the Notice to File Missing Parts, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice to File Missing Parts was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice to File Missing Parts was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and

referenced in petitioner's statement.[1]
It is understood that petitioner is prosecuting this application as a *pro se* inventor and that *pro se* applicants may not have as elaborate a docketing system as a law firm. This does not warrant a total waiver of the requirement of a showing that includes copies of docket records or an adequate proxy for such copies. A *pro se* applicant should have some written records evidencing receipt of communications from and mailing of communications to the Office available to provide proof of nonreceipt. It is suggested that pro se applicants maintain a log of communications from and to the Office, with dates of receipt, due dates and mailing dates of responses and other papers filed noted. Furthermore, applicants may maintain entries on the file jackets noting these important dates. Absent such evidence, applicants may not be able to overcome the presumption that the correspondence was properly mailed and received at the correspondence address of record and thereafter, misplaced by applicants.

The statement of non-receipt is not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] which now provides that where the delay in reply was unintentional, a

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

[2]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)).

[3]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

petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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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400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

COPY MAILED
JUN 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Johnson et al.	:	
Application No. 10/720,778	:	ON PETITION
Filed: 24 November, 2003	:	
For: DEVICE FOR COLLECTING	:	
STATISTICAL DATA FOR	:	
MAINTENANCE OF SMALL-ARMS	:	

This is a decision on the petition, filed on 22 November, 2005, requesting withdrawal of the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 11 March, 2005, which set a three (3) month period for reply. No reply having been received, however, Notice of Abandonment was mailed on 13 November, 2005.

Petitioners assert that a change of correspondence address was timely prior to the mailing of the Notice of Allowance on 11 March, 2005, but that the Notice was not received because the Office incorrectly mailed the Notice to the old address.

In support, petitioners point to the "Power of Attorney" filed on 27 December, 2004, signed by both joint inventors, stating, inter alia, "Address all correspondence to USPTO Customer Number 020808."

A review of the record reveals that a "Power of Attorney for Patent Application" signed by both joint inventors and appointing the attorneys and agents listed with Customer Number 020808, and requesting all correspondence be sent to the above-referenced Customer Number, was filed on 27 December, 2004.

It is noted that the power of attorney filed on 27 December, 2004, does not explicitly revoke the previous power of attorney. Nevertheless, 37 CFR 1.136(a) states, in pertinent part:

> A power of attorney to the patent practitioners associated with a Customer Number will be treated as a request to revoke any powers of attorney previously given.

As such, the paper filed on 27 December, 2004, will be treated as a properly-filed revocation and power of attorney.

Moreover, MPEP 601 states that the required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made.

Here, petitioners clearly stated that all correspondence should be addressed to Customer Number 020808. As such, the showing of record is that petitioners properly requested a change of correspondence address by the papers filed on 27 December, 2004, but that the correspondence address was never changed.

As the error was that of the Office in not mailing the Notice of Allowance and Fee(s) Due to the proper address, the Office action was not received as a result of an irregularity in the mailing (*i.e*, the Notices was not mailed to the proper address). Therefore, the petition is granted.

The revocation and power of attorney and change of correspondence address is accepted.

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

The application is being referred to Technology Center Technical Staff for remailing of the Notices of Allowance and Fee(s) Due and the Notice of Allowability.

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

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/720,778	11/24/2003	Eric Arthur Johnson	2003-1

CONFIRMATION NO. 8646

OC000000019211269

34468
ADVANCED DESIGN CONSULTING, INC.
126 RIDGE RD.,
P.O. BOX 187
LANSING, NY 14882-0187

Date Mailed: 06/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/27/2004.

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

DOUGLAS I WOOD
OP (571) 272-3231

NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/720,778	11/24/2003	Eric Arthur Johnson	2003-1

CONFIRMATION NO. 8646

OC000000019211292

020808
BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

Date Mailed: 06/09/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/27/2004.

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.

DOUGLAS I WOOD
OP (571) 272-3231

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Christopher J. Hanna	: DECISION ON REQUEST FOR
Patent Number	: 7583861	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/720,799	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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 10/720802 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

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)
7041040	2006-05-09	10720806	2003-11-24	094854.010500

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/barry j schindler/	Date (YYYY-MM-DD)	2010-06-17
Name	Barry J. Schindler	Registration Number	32938

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
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In re Patent No. 7041040
Issue Date: May 9,2006
Application No. 10720806
Filed: November 24,2003
Attorney Docket No. 94854-010500

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

This is a decision on the electronic petition, filed June 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2010 . 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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WADDEY & PATTERSON
414 UNION STREET, SUITE 2020
BANK OF AMERICA PLAZA
NASHVILLE TN 37219

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	
Application No. 10/720,833	:	DECISION REFUSING STATUS
Filed: November 24, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. P2025/N8958	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 26, 2004 (certificate of mailing July 22, 2004). Applicants obtained a three-month extension of time to reply. Accordingly, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Applicants filed the above-identified application on November 24, 2003, without an executed oath or declaration. Accordingly, on February 24, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration, the basic statutory filing fee and a surcharge for their late filing.

In response, on July 26, 2004 (certificate of mailing July 22, 2004), applicants filed the present petition, a declaration signed by three inventors, a request for a three-month extension of time to reply, and paid the necessary fees.

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

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. Applicants submitted a 6 page signed declaration listing only three inventors. The declaration does not identify the nonsigning inventor, Dave Snyder, by name, residence, mailing address, or citizenship. The Office notes that the oath or declaration must identify the country of citizenship, as well as "[t]he 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. . . ." 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicants must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the mailing address and citizenship of each inventor, and is signed by the three signing inventors on behalf of the nonsigning inventor, Mr. Snyder.

As to item (4), applicants failed to set forth the last known address of the non-signing inventor in the present petition.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WADDEY & PATTERSON
414 UNION STREET, SUITE 2020
BANK OF AMERICA PLAZA
NASHVILLE TN 37219

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MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of Huang et al. Application No. 10/720,833 Filed: November 24, 2003 Attorney Docket No. P2025/N8958	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 2, 2005 (certificate of mailing dated April 28, 2005).[1]

The petition is granted.

Applicants have shown that Dave Snyder, 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, James R. Cartiglia, attorney for applicants, stated that a letter and copies of the application papers, declaration and assignment were mailed to Mr. Snyder; however, he orally refused the request to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration.[2] Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center Art Unit 3683 for further processing.

---

[1] Applicants obtained a two-month extension of time to reply. Accordingly, the petition is filed timely.

[2] The Office is construing the address indicated on the declaration as Mr. Snyder's last known address. If this is an incorrect interpretation, applicants should contact the undersigned.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Sang Kyun Park	:	DECISION ON PETITION
Application No. 10/720,849	:	
Filed: November 24, 2003	:	
Atty Docket No. 29936/39762	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181," filed November 17, 2005.

The above-identified application became abandoned for failure to timely pay the required issue fee (and publication fee) within the statutory period of three (3) months from the mailing date, February 18, 2005, of the Notice of Allowance and Fee(s) Due. No extensions of time are permitted for transmitting issue fees (or publication fees). Accordingly, the above-identified application became abandoned on May 19, 2005. A courtesy Notice of Abandonment was mailed on October 13, 2005.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The instant petition was promptly filed. Petitioner asserts that the Notice of Allowance was never received at the Marshall, Gerstein and Borun law firm (whose address was at the time of mailing of the Notice, and continues to be, the correspondence address of record). The petition includes a copy of the law firm's electronic database docket for this application, showing where the Notice would have been entered had it been received; and the declaration of attorney of record James Zeller, attesting on a personal knowledge basis that the Notice was never received.

In view thereof, the Notice of Abandonment is hereby vacated, and the holding of abandonment is withdrawn. A new Notice of Allowance and Fee(s) Due will be mailed and the period for reply will be re-started.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Technology Center AU 2818 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Fee(s) Due, as well as, for re-mailing of the Notice of Allowability. The three (3) month nonextendable time period for responding to the Notices, including paying the Issue Fee, will be set to run from the mailing date of the new Notices.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 6 2004

In re Application of Teng. Serial Number: 10/720,882 Filed: November 24, 2003 For: THERMOSENSITIVE LITHOGRAPHIC PRINTING PLATE COMPRISING SPECIFIC ACRYLATE MONOMERS	:	PETITION UNDER M.P.E.P.708.02 V

This is in response to the petition filed November 24, 2003, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

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

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Gary Ganghui Teng
10 Kendall Dr
Northborough, MA 01532

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ANTHONY V.S. ENGLAND
1717 WEST SIXTH STREET
SUITE 230
AUSTIN TX 78703

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OFFICE OF PETITIONS

In re Application of
Srinivasa
Application No. 10/720,894
Filed: November 24, 2003
Attorney Docket No. JP920020187US1

DECISION GRANTING
PETITION

This is a decision on the petition, filed March 26, 2004, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed March 8, 2004.

The application was filed on November 24, 2003. On March 8, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that page 27 of the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that page 27 be accorded a filing date of November 24, 2003 on the basis that the entire specification, including page 27, was received in the Patent and Trademark Office (PTO) on November 24, 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 24, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 30 pages of specification.

The return postcard constitutes *prima facie* evidence that 30 pages of specification were filed on November 24, 2003. MPEP 503. A review of the application file reveals that 30 pages of specification – including page 27– are present.

Accordingly, the March 8, 2004 Notice was mailed in error and the petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of November 24, 2003. Page 27 of the specification, which is currently in the specification, but ***out*** of proper numerical order in relation to the other pages of specification, will be placed ***in*** proper numerical order in relation to the other pages of specification.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
WYBENGA et al.	:	LETTER REGARDING PATENT
Application No. 10/720,899	:	TERM ADJUSTMENT
Filed: 11/21/2003	:	
Attorney Docket No. 2003.07.015.BN0	:	

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT" filed December 15, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Applicants state that they believe that the patent term adjustment should be corrected from 710 days to 709 days.

The request for review of the determination of 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 **709 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants assert that the Office incorrectly entered the date of receipt of the reply to the nonfinal Office action of December 14, 2007, as March 16, 2008, instead of March 17, 2008. In support of the assertion, applicants provided an itemized postcard receipt containing a USPTO date-stamp of March 17, 2008.

The application history has been reviewed and it has been concluded that the determination of patent term adjustment under 35 U.S.C. 154(b) of 710 days is incorrect.

A review of record reveals that the PTA Calculations viewable in PAIR incorrectly reflects the date of receipt of the reply to the nonfinal Office action as March 16, 2008, instead of March 17, 2008. However, it is noted that the Image File Wrapper for the instant application shows the correct date of receipt of the reply as March 17, 2008. Thus, the date of March 17, 2008, instead of March 16, 2008, should have been used for calculating PTA.

Applicants filed their response on March 17, 2008, in excess of the three-month period from the mailing date of the nonfinal Office action. See 37 CFR 1.704(b). Accordingly, the period of adjustment of the term of the patent should have been reduced by 3 days (not 2 days), counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the nonfinal Office action, March 15, 2008, and ending on the date the reply was filed, March 17, 2008. Accordingly, the period of reduction of 2 days is being removed and a period of reduction of 3 days is being entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **709 days** (712 days of Office delay - 3 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). Therefore, the $200.00 fee submitted on April 11, 2008, will be refunded to the Deposit Account. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of updated PAIR screen

Day : Saturday
Date: 2/28/2009

PALM INTRANET

Time: 14:06:45

PTA Calculations for Application: 10/720899			
Application Filing Date:	11/21/2003	PTO Delay (PTO):	712
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	709
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	02/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
49	09/24/2008	MAIL NOTICE OF ALLOWANCE			
48	09/24/2008	ISSUE REVISION COMPLETED			
47	09/17/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
46	09/17/2008	DOCUMENT VERIFICATION			
45	09/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	09/15/2008	EXAMINER'S AMENDMENT COMMUNICATION			
43	09/15/2008	NOTICE OF ALLOWABILITY			
42	08/18/2008	AMENDMENT AFTER FINAL REJECTION			
41	08/24/2008	DATE FORWARDED TO EXAMINER			
40	08/18/2008	AMENDMENT AFTER FINAL REJECTION			
39	06/16/2008	MAIL FINAL REJECTION (PTOL - 326)			
38	06/12/2008	FINAL REJECTION			
37	04/17/2008	DATE FORWARDED TO EXAMINER			
36	03/16/2008	RESPONSE AFTER NON-FINAL ACTION		2	35
35	12/14/2007	MAIL NON-FINAL REJECTION			
34	11/26/2007	NON-FINAL REJECTION			
33	09/21/2007	DATE FORWARDED TO EXAMINER			
32	08/14/2007	RCE- AF PROCESSED			
31	09/21/2007	DATE FORWARDED TO EXAMINER			
30	09/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
29	09/21/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
28	06/24/2004	CORRECTED FILING RECEIPT			

27	04/12/2004	CORRECTED FILING RECEIPT			
26	09/18/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
25	09/06/2007	MAIL ADVISORY ACTION (PTOL - 303)			
24	09/02/2007	ADVISORY ACTION (PTOL-303)			
23	08/19/2007	DATE FORWARDED TO EXAMINER			
22	08/14/2007	AMENDMENT AFTER FINAL REJECTION			
21	06/18/2007	MAIL FINAL REJECTION (PTOL - 326)			
20	06/08/2007	FINAL REJECTION			
19	04/06/2007	DATE FORWARDED TO EXAMINER			
18	03/23/2007	RESPONSE AFTER NON-FINAL ACTION			
17	03/23/2007	NEW OR ADDITIONAL DRAWING FILED			
16	01/03/2007	MAIL NON-FINAL REJECTION	712		-1
15	12/22/2006	NON-FINAL REJECTION			
14	12/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	10/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	10/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
10	07/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	07/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	02/25/2004	APPLICATION RETURN FROM OIPE			
7	02/25/2004	APPLICATION RETURN TO OIPE			
6	02/25/2004	APPLICATION DISPATCHED FROM OIPE			
5	02/25/2004	APPLICATION IS NOW COMPLETE			
4	02/05/2004	CLEARED BY OIPE CSR			
3	02/05/2004	CASE CLASSIFIED BY OIPE			
2	12/25/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/21/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

PTO/SB/63 (01-09)
Approved for use through 02/28/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the above-identified application is a utility or plant application, the lesser of: (a) the period of abandonment of the application; or (b) the period extending beyond twenty years from the date on which the above-identified application was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 1995, or a design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.
2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

_____	_____
Signature	Date
_____	_____
Typed or Printed Name	Telephone Number

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 05/10/2010

Applicant	: Alan L. Billings	: DECISION ON REQUEST FOR
Patent Number	: 7654296	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/720,902	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **252** 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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SEP 11 2009
OFFICE OF PETITIONS

In re Application of	:	
Longman et al.	:	DECISION ON PETITION
Application No. 10/720,914	:	TO WITHDRAW
Filed: November 24, 2003	:	FROM RECORD
Attorney Docket No. 2101.1001	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 2, 2009.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant Request to Withdraw, the petitioner failed to indicate which attorneys were withdrawing, as the top portion of the form was left blank.

All future communications from the Office will continue to be directed to above-listed address until otherwise properly notified by the applicants or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Longman et al.	:	DECISION ON PETITION
Application No. 10/720,914	:	TO WITHDRAW
Filed: November 24, 2003	:	FROM RECORD
Attorney Docket No. 2101.1001	:	

CORRECTED DECISION

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 2, 2009.

The request is **APPROVED**.

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

The request was signed by Thomas E. McKiernan on behalf of himself. Thomas E. McKiernan has been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, Robert Longman, at the address indicated below.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ROBERT LONGMAN
11870 SANTA MONICA BLVD.
UNIT 106 - #506
LOS ANGELES CA 90025

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/2005

TO SPE OF : ART UNIT 3700

SUBJECT : Request for Certificate of Correction on Patent No.: 6,860,820

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.

Are changes to col.6, line 29 & col.7, lines 39 & 59 okay?

Ernest C. White, LIE305-8339

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:

GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE — 3711 **Art Unit**

OIPE JC169
APR 2 5 2005
PATENT & TRADEMARK OFFICE

10.720 936

PATENT
Attorney Docket No. 217931

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number	6,860,820
Issued:	March 1, 2005
Name of Patentee:	Paul Specht
Title of Invention:	GOLF CLUB AND METHODS OF MANUFACTURE

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT'S MISTAKE (37 CFR 1.323)

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

Attn: Decision and Certificate of Correction
Branch of the Patent Issue Division

Dear Sir:

It is requested that a Certificate of Correction be issued to correct errors found in the above-identified patent. Please note that these errors are of a clerical nature or character. The errors occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require reexamination. Accordingly, attached hereto is a Certificate of Correction, in duplicate, which indicates the requested corrections.

The Commissioner is hereby authorized to charge the $100.00 fee as required by 37 CFR 1.20(a) to Deposit Account No. 12-1216. A duplicate of this communication is enclosed for that purpose.

04/26/2005 HABDELR1 00000031 121216 6860820
01 FC:1811 100.00 DA

Respectfully submitted,

Theodore W. Anderson, Reg. No. 17,035
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
((312)616 5700

Date: April 22, 2005

OIPE
APR 2 5 2005
PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT'S MISTAKE (37 CFR 1.323) (along with any documents referred to as being attached or enclosed) 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: Commissioner for Patents, Attn: Decision and Certificate of Correction, Branch of the Patent Issue Division, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 4-22-05 Karen Hinrichs

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,860,820

DATED : March 1, 2005

INVENTOR(S) : Paul Specht

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

Column 5,

Line 21, delete "putterf" and insert - -putter - -

Column 6

Line 29, delete "in [0052]" and insert - - at column. 6, lines 3-6 - -

Line 41, delete "line 6-16" and insert - - line 16-16 - -

Column 7

Line 39, delete "[0057] and insert - - column 7, lines 19-25 - -

Line 59, delete "[0050] and insert - - column 5, lines 40-44 - -

MAILING ADRESS OF SENDER:

Theodore W. Anderson, Reg. No. 17035
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780

PATENT NO. 6,860,820

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9TH FLOOR
ARLINGTON, VA 22201-2909

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JAN 08 2009

In re Application of :
John Reformato et al :
Application No. 10/720,943 : ON PETITION
Filed: November 24, 2003 :
Attorney Docket No. 03-1015

This is a decision on the petition, filed January 6, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 10, 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 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 07/16/2010

Applicant	: Paul R. Gagnon	: DECISION ON REQUEST FOR
Patent Number	: 7648430	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/720,948	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **943** 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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ARLINGTON, VA 22201-2909

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of :
Robert A. Chingon et al :
Application No. 10/721,005 : ON PETITION
Filed: November 24, 2003 :
Attorney Docket No. 03-1016

This is a decision on the petition, filed June 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 June 6, 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 2614 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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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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MAR 28 2008

OFFICE OF PETITIONS

In re Patent No. 7,253,189	:	
Issued: August 7, 2007	:	LETTER REGARDING PTA
Application No. 10/721,015	:	
Filed: November 21, 2003	:	
Atty. Dkt. No.: AL01562K	:	

This letter is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705(d)," filed September 5, 2007. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,253,189 on August 7, 2007. The patent issued with a patent term adjustment (PTA) of 110 days. Patentees indicate that the adjustment of 110 days is thought to be longer than appropriate and indicate that the correct period of adjustment is 99 days. In particular, patentees indicate the patent was improperly adjusted 11 days "pursuant to 35 U.S.C. § 154(b)(1)(B), the 3-year pendency guarantee."

A careful review of the application history does not reveal an error in the adjustment. The adjustment of 259 days for Office delays was properly reduced a total 149 days for applicants' failures to engage in reasonable efforts to conclude prosecution.

Patentees indicate the adjustment of 11 days is inappropriate because applicants filed a Notice of Appeal on March 16, 2007. The filing of a Notice of Appeal which does not result in action being taken by the Board of Patent Appeals and Interferences does not effect the applicability of the provisions of 35 USC 154(b).

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 110 days, as indicated on the patent.

Patentees are invited, if appropriate, to submit a response setting forth with specificity the perceived error in the patent term adjustment calculation.

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

Applicants are given 30 days to file a request for reconsideration of the instant decision. No additional time will be granted under 37 CFR 1.136.

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
German et al.	:	
Application No. 10/721,029	:	DECISION DISMISSING PETITION
Filed: 24 November, 2003	:	
Atty Dckt No. CC-3581	:	

This is a decision in reference to the petition filed on 13 July, 2005, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 24 November, 2003, rather than the currently-accorded filing date of 25 November, 2003.

Petitioner alleges that the application was deposited in Express Mail service on 24 November, 2003. In support, on 13 July, 2005, petitioners supplied a copy of a USPS Express Mail Customer Label showing a "date-in" of "11-24-03". Although the Express Mail number on the Customer Label provided with the petition is not legible, a review of the U.S. Postal Service Track & Confirm database shows that a shipment with Label No. EV325642278US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file), was accepted by the USPS on 24 November, 2003.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 24 November, 2003.

In view of the above, the application is entitled to a filing date of 24 November, 2003.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to 24 November, 2003, and mailing of a corrected Filing Receipt.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:
German et al.	: CORRECTED
Application No. 10/721,029	: DECISION GRANTING PETITION
Filed: 24 November, 2003	:
Atty Dckt No. CC-3581	:

This is a corrected decision in reference to the petition filed on 13 July, 2005, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 24 November, 2003, rather than the currently-accorded filing date of 25 November, 2003.

Petitioner alleges that the application was deposited in Express Mail service on 24 November, 2003. In support, on 13 July, 2005, petitioners supplied a copy of a USPS Express Mail Customer Label showing a "date-in" of "11-24-03". Although the Express Mail number on the Customer Label provided with the petition is not legible, a review of the U.S. Postal Service Track & Confirm database shows that a shipment with Label No. EV325642278US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file), was accepted by the USPS on 24 November, 2003.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 24 November, 2003.

In view of the above, the application is entitled to a filing date of 24 November, 2003.

The filing date has been corrected in Office records. A corrected Filing Receipt reflecting the updated information is enclosed for petitioners' records.

As the filing date was previously corrected in Office records, the application is referred to Technology Center 3700 for further processing.

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

Encl: Corrected Filing Receipt

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MARK P. LEVY
THOMPSON HINE LLP
P.O. BOX 8801
DAYTON OH 45401-8801

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DEC 14 2006
OFFICE OF PETITIONS

In re Application of
T. Douglas Mast
Application No. ~~10/721,304~~ 10/721,034
Filed: November 24, 2003
Attorney Docket No. END-5042USCIP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed July 12, 2005. A response was filed November 14, 2005 with a one month extension of time request, but by Advisory Action of February 7, 2006, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on October 13, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3768 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/721,036	11/21/2003	2121	1412	5646-119	7	27	9

CONFIRMATION NO. 6643

CORRECTED FILING RECEIPT

OC000000012441052

Grant J. Scott
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

Date Mailed: 04/23/2004

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

Applicant(s)

Jakob Saxtorph, San Jose, CA;
John R. Mick JR., Sunnyvale, CA;
Harmeet Bhugra, 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 10/31/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/24/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

CAM-based search engine devices having advanced search and learn instruction handling

Preliminary Class
706

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 : 7/18/06

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/721042 Patent No.: 7066271

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Steven J. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7660857	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,044	: 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 **1359** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

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

In re Application	:	
Schneider, et al.	:	
Application No. 10/721,047	:	DECISION ON APPLICATION
Filed: November 21, 2003	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 020444-000110US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT CORRECTION", filed December 29, 2006. Applicants assert that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of two hundred fifty-nine (259) days should be corrected to one hundred ninety-four (194) 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 **one hundred ninety-four (194) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 3, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred fifty-nine (259) days.

The Office initially determined a patent term adjustment of two hundred fifty-nine (259) days based on an adjustment for PTO delay of two hundred fifty-nine (259) 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.

As pointed out by applicants, applicants should have been assessed delay pursuant to 37 C.F.R. § 1.704(b). The Office mailed a non-final Office action on October 7, 2005. Applicants did not file a reply until March 13, 2006. Accordingly, applicant should have been assessed sixty-five (65) days of delay under § 1.704(b).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred ninety-four (194) days** (259 days of PTO delay, reduced by 65 days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

The file 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 for

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

Enclosure: Copy of Revised PAIR Screen

PALM INTRANET

Day : Friday
Date: 3/2/2007
Time: 18:01:21

PTA Calculations for Application: 10/721047			
Application Filing Date:	11/21/2003	PTO Delay (PTO):	259
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	194
PTO Delay Adjustment:	-65		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		65	
36	10/03/2006	MAIL NOTICE OF ALLOWANCE			
35	10/03/2006	MAIL EXAMINER'S AMENDMENT			
34	10/01/2006	ISSUE REVISION COMPLETED			
33	10/01/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	10/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
31	09/29/2006	EXAMINER'S AMENDMENT COMMUNICATION			
30	09/29/2006	NOTICE OF ALLOWABILITY			
29	10/02/2006	MAIL NOTICE OF WITHDRAWN ACTION			
28	09/29/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
27	11/21/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	09/19/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
25	05/24/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
24	03/15/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
23	03/20/2006	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
22	03/17/2006	DATE FORWARDED TO EXAMINER			
21.1	03/13/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
21	03/13/2006	RESPONSE AFTER NON-FINAL ACTION			
20	03/13/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	10/07/2005	MAIL NON-FINAL REJECTION	259		-1

18	09/19/2005	NON-FINAL REJECTION			
17	07/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	07/29/2004	REFERENCE CAPTURE ON IDS			
14	12/23/2003	PRELIMINARY AMENDMENT			
13	11/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/21/2003	PRELIMINARY AMENDMENT			
11	04/29/2004	APPLICATION RETURN FROM OIPE			
10	04/29/2004	APPLICATION RETURN TO OIPE			
9	04/29/2004	APPLICATION DISPATCHED FROM OIPE			
8	04/29/2004	APPLICATION IS NOW COMPLETE			
7	03/19/2004	ADDITIONAL APPLICATION FILING FEES			
6	03/19/2004	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
5	01/21/2004	CORRECTED PAPER			
4	01/09/2004	CLEARED BY OIPE CSR			
3	01/09/2004	CASE CLASSIFIED BY L&R			
2	01/06/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/21/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

SOFER & HAROUN, LLP
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

In re Application of :
Cyril Houri :
Application No. 10/721,052 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 835-002con :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 5, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 6, 2006.

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

The person signing the instant petition also requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 2157 for further processing

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Schwegman, Lundberg Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

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OFFICE OF PETITIONS

In re Application of
Kinya Hasegawa et al
Application No. 10/721,066
Filed: November 26, 2003
Attorney Docket No. 20402-00639-US1

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 13, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications Application No. 09/290,394, filed April 13, 1999, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

The claim for benefit of the prior-filed application cannot be accepted at this time. In this regard, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more **prior-filed** copending nonprovisional applications must contain or be amended to contain a

reference to each such **prior-filed** application, identifying it by application number (consisting of the series code and serial number) **and indicating the relationship of the applications**. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/—, filed —" **(inclusion of the title of the invention of each application is not necessary)**. *See* Manual of Patent Examining Procedure (8th ed., August 2001), Section 201.11, Reference to First Application.

In reviewing the chain of applications to which applicants are seeking to claim priority, it does not appear that petitioner has complied with MPEP Section 201.06(d). The amendment submitted with the instant petition cannot be entered since the relationship of each application to the other is not clearly stated to which priority is being claimed. Therefore, petitioner must review the chain of applications and ensure that compliance with 35 U.S.C. § 120 has been met and, further, must clearly set forth the relationship of each application to the earlier-filed application (i.e., use "which" and "and" to denote the proper relationship between each prior-filed and intermediate application). The amendment as written is unclear as to the relationship of the subject application to the other prior-filed and intermediate applications set forth in the amendment. Petitioner should also note that the prior-filed application must have a filing date earlier than the date of the application claiming the prior-filed application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a proper amendment[1] along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

By fax: (571) 272-8300

---

[1] *Note* 37 CFR 1.121

As authorized, the $1,240 fee (1,370 - 130) required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 22-0185.

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

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Connolly Bove Lodge & Hutz LLP
Suite 800
1990 M Street, N. W.
Washington, DC 20036-3425

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JUN 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Kinya Hasegawa, et al.	:	
Application No. 10/721,076	:	DECISION ON PETITION
Filed: November 26, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 20402-00639-US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status

of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed February 11, 2005 fails to state the relationship of Application No. 10/721,076, filed February 11, 2005, to this application.

Furthermore, the amendment was filed after payment of the issue fee, which was tendered August 9, 2004. Effective May 29, 2000, 37 CFR 1.312(b) was abolished. As such, submission of an amendment after payment of the issue fee is no longer permitted. In view thereof, petitioner must file a petition to withdraw from issue under 37 CFR 1.313(c)(2), accompanied by a Request for Continued Examination (RCE) and requisite fees, in order for the amendment to be considered.

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 Marianne Jenkins at (571) 272-3223.

Frances Hicks

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Applicant:	Robert YS Huang, et al		
Serial No.:	10/026,257	Examiner:	Not Yet Assigned
Filed:	December 21, 2001		
For:	A Mask Layer and Interconnect Structure for Dual Damascene Fabrication of a Semiconductor Device	Art Unit:	Not Yet Assigned

Assistant Commissioner for Patents
Assignment Division
Box ASSIGNMENTS, CG-4
1213 Jefferson Davis Hwy. Ste. 320
Washington, DC 20231

Petition Regarding Unavailability of Inventor

This Petition is submitted pursuant to 37 CFR 1.47 to verify the unavailability of one of the inventors in the above referenced application, **Joshua Jia Li**. Attached is a Declaration of the Applicant pursuant MPEP § 409.03(d) and the fees as required by 37 CFR 1.17(h).

Respectfully submitted,

Robert L. Wolter, Esquire
Registration No. 36, 972
Beusse, Brownlee, Bowdoin & Wolter, P.A.
390 North Orange Avenue, Suite 2500
Orlando, Florida 32801
Telephone: (407) 926-7706
Fax: (407) 926-7720
E-mail: rwolter@iplawfl.com

Certificate of Mailing

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition Regarding Unavailability of Inventor was furnished by first class mail to the Assistant Commissioner for Patents, Assignment Division, Box ASSIGNMENTS, CG-4, 1213 Jefferson Davis Hwy. Ste. 320, Washington, DC 20231this 1st day of March, 2002.

Gwendolyn Ramsey

Gwendolyn C. Ramsey

BEUSSE, BROWNLEE, WOLTER, MORA & MAIRE, P.A. 007066

DATE : November 25, 2003

CHE # : 7066

AMOUNT : $840.00

ACCOUNT : 1

PAID TO : Commissioner For Patents

EXPLANATION : Extension of Time

BEUSSE, BROWNLEE, WOLTER, MORA & MAIRE, P.A.
OPERATING ACCOUNT
390 NORTH ORANGE AVE, SUITE 2500
ORLANDO, FL 32801

CENTURY NATIONAL BANK
Orlando, FL 32801
63-1481/0631

CHECK NO. 007066
7066

VOID

*** Eight Hundred Forty *** 00/100

PAY TO THE ORDER OF

DATE Nov 25, 2003

AMOUNT $840.00

Commissioner For Patents

Extension of Time

⑈007066⑈ ⑆063114810⑆ 6534507⑈

BEUSSE, BROWNLEE, WOLTER, MORA & MAIRE, P.A. 007066

DATE : Nov 25, 2003

CHE # : 7066

AMOUNT : $840.00

ACCOUNT : 1

PAID TO : Commissioner For Patents

EXPLANATION: Extension of Time

DISBURSEMENT AMOUNTS :

MATTER	AMOUNT		
075903-021	840.00		

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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DIW 04-04

JAMES H. BEUSSE, ESQUIRE
BEUSSE BROWNLEE BOWDOIN & WOLTER, P.A.
SUITE 2500
390 NORTH ORANGE AVENUE
ORLANDO FL 32801

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Huang, Jessen, Karthikeyan, Li,	:	
Oladeji, Steiner, and Taylor	:	DECISION REFUSING STATUS
Application No. 10/721,126	:	UNDER 37 CFR 1.47(a)
Filed: 25 November, 2003	:	
Attorney Docket No. Huang	:	
5-13-7-3-5-33-7/07	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 25 November, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 November, 2003, with a declaration naming Robert YS Huang, Scott Jessen, Subramanian Karthikeyan, Joshua Jia Li, Isaiah O. Oladeji, Kurt Geroge Steiner, and Joseph Ashley Taylor as joint inventors and signed by all joint inventors except Li on behalf of themselves and joint inventor Li.

The present petition was also filed on 25 November, 2003, whereby petitioners assert that joint inventor Li cannot be found to sign the declaration, as a copy of the declaration and an assignment sent to him were returned as undeliverable. Petitioners further

state that Li has moved to Singapore and that no forwarding address is available.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1), (2), and (3).

In regards to item (1), a showing of diligent effort requires that petitioners provide, with any renewed petition, a copy of the envelope showing that the letter sent to the non-signing inventor was returned as undeliverable by the U.S. Postal Service.[1] Further, if petitioners believe that Li is in Singapore, petitioners must show that diligent efforts were made to locate him.

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[2] The showing of record is insufficient to prove that diligent efforts were made to locate the non-signing inventor. Petitioner should explain what attempts were made to obtain a forwarding address and to locate the inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. though e-mail, telephone, national registry) continue to fail, then applicant will have established that the inventor cannot be reached. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having *first hand* knowledge of the details. The specific dates and times that the application was mailed and other attempts, such as telephone calls or e-mail searches, were made should be included.

---

[1] See MPEP 409.03(d).

[2] MPEP 409.03(d).

Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.[3] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In the event that the application is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (2), the declaration submitted with the application papers is defective in that (a) it contains non-initialed/non-dated alterations for joint inventor Oladeji.[4] Petitioners should submit a new declaration, signed by joint inventor Oladeji, in compliance with 37 CFR 1.63 and 1.67.

In regards to item (3), Patent and trademark fees and charges payable to the U.S. Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[5] A review of the papers filed with the present petition reveals that the requisite petition fee of $130.00 was not enclosed. As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the petition fee.

---

[3] MPEP 409.03(d).

[4] See 37 CFR 1.52(c).

[5] 37 CFR 1.22(a).

In regards to item (5), if a more recent last known address is discovered for joint inventor Li, that address must be provided with any renewed petition.

It is noted that the petition filed with this application is a copy of a petition filed in prior application No. 10/026,257, of which the present application is a continuation.

37 CFR 1.63(d)(3) provides, in pertinent part

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) a copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c)

Petitioner has not provided a copy of the decision granting status under 37 CFR 1.47 in the prior application, No. 10/026,257. Petitioner must submit a copy of the decision granting status in the prior application with a renewed petition.

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

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 07-04

JAMES H. BEUSSE, ESQUIRE
BEUSSE BROWNLEE BOWDOIN & WOLTER, P.A.
SUITE 2500
390 NORTH ORANGE AVENUE
ORLANDO FL 32801

COPY MAILED

JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of	:
Huang, Jessen, Karthikeyan, Li,	:
Oladeji, Steiner, and Taylor	: DECISION NOTING JOINDER OF
Application No. 10/721,126	: INVENTOR AND PETITION
Filed: 25 November, 2003	: UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. Huang	:
5-13-7-3-5-33-7/07	:

Papers filed on 6 July, 2004, in response to the decision dismissing petition mailed on 2 April, 2004, included a Declaration signed by the previously non-signing inventor, Joshua Jia Li, 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 2800 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

PATENT DOCUMENTATION CENTER
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XEROX SQUARE, 20TH FLOOR
ROCHESTER, NY 14644

MAIL

AUG 3 0 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Robert P. Loce *et al.*
Serial No.: 10/721,138
Filed: November 25, 2003
For: **SYSTEMS FOR SPECTRAL MULTIPLEXING OF SOURCE IMAGES TO PROVIDE A COMPOSITE IMAGE, FOR RENDERING THE COMPOSITE IMAGE, AND FOR SPECTRAL DEMULTIPLEXING THE COMPOSITE IMAGE TO OBTAIN A NORMALIZED COLOR IMAGE**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(b)(2) filed November 25, 2003, requesting acceptance of color drawings.

The petition requests that the photographs identified in Figure 7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(b)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition was filed without 3 (three) complete sets of color drawings of Figure 7. Submitted with the petition was two (2) sets of colored drawings for Figure 7.

As stated, a grantable petition must be accompanied by three (3) sets of the color drawings and color photographs. Accordingly, the petition is **Denied**.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

The petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should be complete, i.e., include three (3) sets of color drawings, color photographs and a black and white photocopy of the same.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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FAY SHARPE/XEROX - ROCHESTER
1100 SUPERIOR AVE.
SUITE 700
CLEVELAND, OH 44114

MAIL

JAN 3 0 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Robert P. Loce *et al.* :
Serial No.: 10/721,138 :
Filed: November 25, 2003 : DECISION ON PETITION
For: **SYSTEMS FOR SPECTRAL MULTIPLEXING OF SOURCE IMAGES TO PROVIDE A COMPOSITE IMAGE, FOR RENDERING THE COMPOSITE IMAGE, AND FOR SPECTRAL DEMULTIPLEXING THE COMPOSITE IMAGE TO OBTAIN A NORMALIZED COLOR IMAGE** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.84(b)(2) filed November 25, 2003, requesting acceptance of color drawings.

The petition requests that the photographs identified in Figure 7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(b)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition is **GRANTED**.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jan-08

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK NY 10036-2714

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JAN 03 2008

OFFICE OF PETITIONS

In re Application of :
Sanchez et al. :
Application Number: 10/721170 : DECISION ON PETITION
Filing Date: 11/26/2003 :
Attorney Docket Number: :
W1878.0191 :

This is a decision on the petition filed on November 8, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 19, 2006, for failure to timely submit a reply to the non-final Office action mailed on July 18, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on May 21, 2007.

Petitioners have filed an amendment to the claims and specification as the required reply.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The

[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)).

three (3)-month extension request filed on November 8, 2007, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on July 18, 2007, and therefore is unnecessary. The extension of time fee paid on November 8, 2007, will be credited to counsel's deposit account as authorized.

This application is being referred to Technology Center Art Unit 2618 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 09 2005

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

In re Application of	:	
Ralph Venuto, Sr.	:	
Serial No.: 10/721,171	:	DECISION ON PETITION
Filed: November 23, 2003	:	
For: Spray Booth	:	

This is in response to applicants' petition filed June 10, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(a), based on applicant's health condition.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV with supporting documentation. Therefore the petition is hereby **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 Esther M. Kepplinger 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) 273-0275.

Esther M Kepplinger

Esther M. Keppliner, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

In re Application of:	:	
VanVooren et al.	:	
Application No. 10/721,187	:	DECISION GRANTING
Filed: November 26, 2003	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(a)
MULTIPLE DETENT SWITCH	:	

This decision is in response to the Petition Under 37 CFR 1.47(a), filed November 26, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, William F. Swisher, refuses to join in the application.

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

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

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

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES 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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MAR 3 0 2005

OFFICE OF PETITIONS

William F. Swisher
1930 E. County Road 1670
Carthage, IL 62321

In re Application of: :
VanVooren et al. :
Application No. 10/721,187 : LETTER
Filed: November 26, 2003 :
Title of Invention: :
MULTIPLE DETENT SWITCH :

Dear Mr. Swisher:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney/Advisor
Office of Petitions

cc: BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

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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LENOVO (US) IP Law
1009 Think Place
Building One, 4th Floor 4B6
Morrisville NC 27560

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FEB 22 2008

OFFICE OF PETITIONS

In re Application of
Seiichi Kawano
Application No. 10/721,207
Filed: November 25, 2003

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2008, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed April 20, 2007. 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 July 21, 2007. A Notice of Abandonment was mailed on November 30, 2007.

This petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). 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. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 2821 for appropriate action by the Examiner in the normal course of business on the reply received

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: Joseph A. Sawyer, Jr.
2465 E. Bayshore Road, Suite 406
Palo Alto, CA 94303

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Stephan P. Georgiev
SMART & BIGGAR
Suite 3400
1000 de la Gauchetiere Street West
Montreal, Quebec H3B 4W5 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Jean-Francois Savaria et al.	:	
Application No. 10/721,223	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. 86267-39	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 28, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Alain Bernier**
OSLER, HOSKIN & HARCOURT LLP
1000 De La Gauchetiére Street West
Suite 2100
Montreal, Quebec H3B 4W5
Canada

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CHOATE, HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109-2804

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OFFICE OF PETITIONS

In re Application of	:	
Kuzbyt et al.	:	
Application No. 10/721,235	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. IMM-11401	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Liu, I-Ru	:	
Application No. 10/721,239	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. BHT/3111-380	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

LINIAK, BERENATO & WHITE
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

In re Application of	:	
Brian Scott Crawford et al	:	DECISION ON PETITION
Application No. 10/721,258	:	TO WITHDRAW
Filed: November 26, 2003	:	FROM RECORD
Attorney Docket No. 8200.847	:	

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, an attorney of record.

Thomas P. Liniak has been withdrawn as attorney or agent of record; the other attorneys remain of record.

The file is being referred to Technology Center AU 1723 for the mailing of the Non-final Office action of May 15, 2006.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

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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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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SEP 1 2 2005

OFFICE OF PETITIONS

In re Application of
Gotoh et al.
Patent No. 6,881,591
Application Number: 10/721,263
Issue Date : April 19, 2005
Filing Date: November 26, 2003
Attorney Docket Number: P67440US2

DECISION ON PETITION

This is a decision on the petition for certificate of correction under 37 CFR 1.1.83 filed on June 1, 2005. The petition is properly treated under 37 CFR 3.81 (b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Dismissed**.

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

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11

before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(l)

Petitioner has failed to establish (A). Petitioner has requested to correct the name of the assignee to "Sunstar Giken Kabushiki Kaisha, Takatsuki (JP)". However, a review Office PALM computer database assignment records at the time of the issuance of the patent shows the assignee's name as "Sunstar Suisse SA". Therefore a certificate of correction to correct 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

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P.O. Box 1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of
Gotoh et al.
Patent No. 6,881,591
Application Number: 10/721,263
Issue Date : April 19, 2005
Filing Date: November 26, 2003
Attorney Docket Number: P67440US2

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 3.81 (b) filed on November 9, 2005 to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of
Nakamura, et al.
Application No. 10/721,269
Filed: November 26, 2003
Attorney Docket No. Q78680
For: ORGANIC ELECTROLUMINESCENCE CELL, PLANAR LIGHT SOURCE AND DISPLAY DEVICE

DECISION ON PETITION

This is a decision on the petition filed April 26, 2004 requesting that Figures 12 and 13 be accorded a filing date of November 26, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on November 26, 2003. On February 26, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioners that Figures 12 and 13, as described in the specification, appeared to have been omitted.

Petitioners request that Figures 12 and 13 be accorded a filing date of November 26, 2003 on the basis that 7 sheets of drawing figures, including Figures 12 and 13, were received in the Patent and Trademark Office (PTO) on November 26, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 26, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of drawing figures were filed on November 26, 2003. MPEP 503. A review of the application file reveals that there are 6 sheets of drawing figures present, depicting Figures 1-11.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. Pursuant to petitioners' authorization, deposit account no. 19-4880 will be credited the $130.00 petition fee submitted with the instant petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **November 26, 2003**, using the copy of Figures 12 and 13 submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on initial filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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OFFICE OF PETITIONS

In re Application of	:	
Chen, et al.	:	
Application No. 10/721,279	:	NOTICE
Filed: November 26, 2003	:	
Attorney Docket No. 23396-US-PA	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 13, 2009.

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 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) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Masashi Nagano	:	
Application No. 10/721,284	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. 506212001300	:	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 19, 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 Barry E. Bretschneider on behalf of all attorneys/agents of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 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 inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicants.

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

This application is being referred to Technology Center AU 3682.

Amelia Au
Petitions Examiner
Office of Petitions

cc: GLOBAL IP COUNSELORS
1233 TWENTIETH STREET NW
SUITE 700
WASHINGTON, DC 20036

MASASHI NAGANO
26-7, MIDORIGAOKA 2-CHOME
IZUMI-SHI
OSAKA-FU, 594-1155
JAPAN

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Director's Office
Office of Patent Publication

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

In re Application of	:	
HSU, BEN	:	
Application No. 10/721,291	:	**DECISION ON PETITION**
Filed: November 26, 2003	:	
Attorney Docket No. BHT-3125-173	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181, received in the United States Patent & Trademark Office (USPTO) via facsimile transmission on July 17, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed March 22, 2006. The Notice of Abandonment, mailed on June 26, 2006 indicates, "The submitted fee of $0 is insufficient. A balance of $1,000 is due."

Petitioner asserts that at all times between June 12, 2006 and the mailing of the Notice of Abandonment on June 26, 2006, adequate funds were maintained in their deposit account sufficient to cover the required fees. In support of this assertion petitioner has submitted copies of pages of their June monthly statement for Deposit Account 50-1874.

Part B – Fee(s) Transmittal received on June 12, 2006, authorized the Issue Fee and Publication Fee be charged to Deposit Account No. 50-1874. On June 12, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fees. The Deposit Account Maintenance record provided by the Office of Finance indicates that the Deposit Account balance amount was $.00.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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TROXELL LAW OFFICE, PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

In re Application of	:	
Ben Hsu	:	
Application No. 10/721,291	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. BHT-3125-173	:	

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 22, 2006. A Notice of Abandonment was mailed on June 26, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul Hastings Janofsky and Walker, LLP
3579 Valley Centre Drive
San Diego, CA 92130

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OFFICE OF PETITIONS

In re Application of	:	
William Sun	:	
Application No. 10/721,298	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO WITHDRAW
Attorney Docket No. 2358.01300002/RWE	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

A review of the file record indicates that C. Amy Smith, Ph.D. 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 previous power of attorney has been revoked by the assignee of the patent application on December 30, 2005.

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 Cheryl Gibson-Baylor at 571-272-3213. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: KK

cc: Robert W. Esmond, Esq.
Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, N.W.
Washington, DC 20005

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of Eggert et al. Application No. 10/721, 307 Filed: November 25, 2003 Attorney Docket Number: 16844.57 Title of Invention: Interactive Education System For Teaching Patient Care	: : : : : : :	ON PETITION

This is a decision on the petition filed December 19, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed August 17, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November18, 2006. A Notice of Abandonment was mailed on December 13, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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2929 ARCH STREET, 12TH FLOOR
CIRA CENTRE
PHILADELPHIA, PA 191104-2891

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OFFICE OF PETITIONS

In re Application of	:	
SNYDER, et al.	:	
Application No. 10/721,314	:	DECISION ON PETITION
Filed: November 25, 2003	:	TO WITHDRAW
Attorney Docket No. **P-70039-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 June 29, 2007.

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

A review of the file record indicates that the power of attorney to **WOODCOCK WASHBURN, LLP** has been revoked by the assignee of the patent application on July 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 the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ABB INC.**
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE OH 44092

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

Thomas E. Anderson
Hunton & Williams LLP
1900 K Street, N.W.
Washington, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Martin Soukup	: DECISION ON REQUEST FOR
Patent Number	: 7613179	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1154** 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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www.uspto.gov

Thomas E. Anderson
Hunton & Williams LLP
1900 K Street, N.W.
Washington, DC 20006-1109

Mail Date: 05/04/2010

Applicant	: Martin Soukup	: DECISION ON REQUEST FOR
Patent Number	: 7613179	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/721,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1154** 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
P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED

SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Ouchi et al. :
Application No. 10/721,344 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket No.:Q78643 :
Title of Invention: THIN METAL :
LAYERS-HAVING CERAMIC GREEN SHEET :
AND METHOD FOR PRODUCING CERAMIC :
CAPACITOR :

This is a decision on the petition filed July 29, 2004, requesting in effect, that a Notice to File Omitted Items which was contained in a Notice to File Corrected Application Papers ("Notice") mailed June 30, 2004, be withdrawn.

The application was filed on November 26, 2003. However, on June 30, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of November 26, 2003 but figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f located on sheets 2-7 were filed on November 26, 2003. In support, the petition is accompanied by a copy of applicant's return postcard which lists " # Dwg. Sheets: 7". The petition is further accompanied by a copy of pages 2 - 7 which contain figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f as described in the specification.

Applicant's postcard receipt is prima facie evidence that 7 sheets of drawings, including figures were received on July 16, 2003, but two pages containing figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f were received on November 26, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted to the extent of the Omitted Items. No

petition fee is due and none has been charged.

Since figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f as described in the specification cannot be located in the Office, figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f supplied on July 29, 2004, will be used for processing and examination purposes.

The Office acknowledges receipt of the 7 pages of drawings submitted on July 29, 2004 in response to the Notice to File Corrected Application papers

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 26, 2003, using substitute pages 2 -7 that contain figures 2a-c, 3a-e, 4, 5a-d,6a-e,7a-f supplied on July 29, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MUNCY, GEISSLER, OLDS & LOWE, PLLC
PO BOX 1364
FAIRFAX, VA 22038-1364

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Heiko Glienicke, et al.	:	
Application No. 10/721,358	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. 1005/0136PUS1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Muncy, Geissler, Olds & Lowe, PLLC has been revoked by the assignee of the patent application on September 25, 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 undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PREH GMBH
AN DER STADTHALLE
D-97616 BAD NEUSTADT/SAALE,
GERMANY

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AUG 25 2006
OFFICE OF PETITIONS

HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

In re Application of	:	
Xu, et al.	:	
Application No. 10/721,367	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. SVL920030119	:	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 15, 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 Kevin A. Bulford on behalf of himself.

All attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to April Wise 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
Alexandria, VA 22313-1450
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DW Jul-07

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE IL 60048-5343

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Mangalik et al.	:	
Application No. 10/721370	:	ON PETITION
Filed: 11/25/2003	:	
Atty Docket No. CS21628RL	:	

This is a decision on the petition under 1.137(b),[1] filed on 3 June, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

---

[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)).

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 6 October, 2006, for failure to timely respond to the non-final Office action mailed on 5 July, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 8 February, 2007.

The petition lacks the required reply. Although petitioners submitted a paper styled as an amendment as the required reply, that amendment is not signed. 37 CFR 1.33(b) states that papers filed in an application, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, must be signed by: (1) A patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition is therefore dismissed without prejudice to reconsideration pending receipt of a properly signed reply.

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Mir Islam	: DECISION ON REQUEST FOR
Patent Number	: 7596612	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,372	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 05/18/2010

Applicant : Mir Islam
Patent Number : 7596612
Issue Date : 09/29/2009
Application No : 10/721,372
Filed : 11/25/2003

: 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 **1076** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

United States
Patent And
Trademark Office

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

PETITION DECISION

02/27/04

Alan Kasper
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

Dear Applicant:

The Box PGPub replacement drawings for application number 10/721384 received on 01/27/04 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 : 11/02/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10721389 Patent No.: 7542616

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

[redacted]

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

11/4/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20091104

DATE : 11/02/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10721389 Patent No.: 7542616

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

11/4/09

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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OFFICE OF PETITIONS

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

In re Patent No. 7,294,473
Issued: November 13, 2007
Application No. 10/721,404
Filed: November 25, 2003
Dkt. No.: 14539-004012

: ON PETITIONS under
: 37 CFR 1.183 and ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) application for patent term adjustment under 37 C.F.R. § 1.705(d), both filed on January 22, 2009.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On November 13, 2007, the above-identified application matured into U.S. Patent No. 7,294,473 with a revised patent term adjustment of 444 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed application for patent term adjustment under 37 CFR 1.705(d). Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183 TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on November 13, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 22, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by January 13, 2008, the date two months from the date this patent issued, November 13, 2007. Rather, on January 22, 2009, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C.

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The basis for requesting waiver set forth by petitioner is the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was occurred more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

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§ 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d), filed January 22, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 747 days.

On November 13, 2007, the above-identified application matured into U.S. Patent No. 7,294,473 with a revised patent term adjustment of 444 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on January 22, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DENNISON, SCHULTZ & DOUGHERTY
612 Crystal Square 4
1745 Jefferson Davis Highway
Arlington, VA 22202-3417

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MAR 1 6 2006

OFFICE OF PETITIONS

In re Application of

Simon Huang

Application No. 10/721,422

Filed: November 26, 2003

Attorney Docket No. **3093/54**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.182, filed December 8, 2005, to revive the above-identified application.

The petition is **dismissed as moot.**

The instant petition maintains that the name of the sole inventor was not spelled correctly on the declaration filed December 26, 2003. Petitioner requests that the name of the sole inventor be corrected to "Simon Huang." Section 605.04(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part that:

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

As indicated, the instant petition is not necessary to correct a typographical or transliteration error in the spelling of an inventor's name. The petition is dismissed as moot, accordingly.

The USPTO records have been changed to reflect the name of the sole inventor in the subject application as "Simon Huang." A corrected filing receipt is enclosed.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/721,422	11/26/2003	3725	685	3093/54	7	17	2

CONFIRMATION NO. 6585

CORRECTED FILING RECEIPT

OC000000017902945

DENNISON, SCHULTZ & DOUGHERTY
612 Crystal Square 4
1745 Jefferson Davis Highway
Arlington, VA 22202-3417

Date Mailed: 01/24/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Simon Huang, SanChung City, TAIWAN;

Power of Attorney:

David Dougherty--19576
Donald Dennison--19920
Ira Schultz--28666
Malcolm MacDonald--40250
Amir Behnia--50215

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/721,422

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ROUND UNDULATING BLADE AND BLADE MODULE FOR SHREDDER

Preliminary Class

241

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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JAN 03 2007

OFFICE OF PETITIONS

Jacqueline S. Larson
245 Avington Road
Alameda, CA 94502

In re Application of	:	
David S. Soane et al.	:	
Application No. 10/721,442	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO WITHDRAW
Attorney Docket No. CSMT-002PN	:	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, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **William R. Haulbrook**
Goodwin Procter LLP
53 State Street
Boston, MA 02109

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Alameda, CA 94502

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DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
David S. Soane et al.	:	
Application No. 10/721,442	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO WITHDRAW
Attorney Docket No. CSMT-002PN	:	FROM RECORD
	:	

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

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

The application became abandoned for failure to timely to the Office action mailed September 14, 2006.

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: **Soane Labs, LLC**
45 Spinelli Place
Cambridge, MA 02138

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/721,442	11/24/2003	David S. Soane	CSMT-002PN

CONFIRMATION NO. 7123

POWER OF ATTORNEY NOTICE

23979
JACQUELINE S LARSON
245 AVINGTON ROAD
ALAMEDA, CA 94502

OC000000027011337

Date Mailed: 11/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/14/2007.

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

/tswilliams/

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

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ROBERT N. CROUSE
MYERS BIGEL SIBLEY & SAJOVEC
POST OFFICE BOX 37428
RALEIGH NC 27627

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JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 10/721,480	:	DECISION ON PETITION
Filed: 26 November, 2003	:	
Attorney Docket No. 5649-1218	:	

This is a decision on the petition filed on 3 January, 2005, requesting that the above-identified application be accorded a filing date which is treated as a petition requesting that above-identified application, including nine (9) sheets of drawings, be accorded a filing date of 26 November, 2003.

The petition is granted.

On 26 November, 2003, the application was filed.

On 2 November, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing daté would be the date of receipt of the missing drawings. A two (2)-month period for reply was set.

In response, on 3 January, 2005 (certificate of mailing date 29 December, 2003), the present petition and a copy of nine (9) sheet of drawings, was filed. Petitioners argue that nine (9) drawing sheets were filed with the other application papers on 26 November, 2003, but were 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 11/26/03 containing the above-identified application number, and identifies the application by the first named inventor's last

name and attorney docket number, and acknowledges receipt of, *inter alia*, 9 sheets of formal drawings. Petitioners request that the application, including the nine (9) sheets of drawings, be accorded a filing date of 26 November, 2003.

A review of the record reveals that no sheets of drawings received on 26 November, 2003, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 26 November, 2003, included nine (9) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including nine (9) sheets of drawings, is entitled to a filing date of 26 November, 2003.

In view of the above, the petition is granted. The petition fee of $400.00 will be credited to counsel's deposit account, No. 50-0220.

The application will be processed with the copy of the nine (9) sheets of drawings supplied on 3 January, 2005, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 26 November, 2003, using the application papers filed on that date and the copy of nine (9) sheets of drawings supplied with the present petition, and for an indication in Office records that nine (9) sheets of drawings were present on filing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:
Lee et al.	:
Application No. 10/721,480	: DECISION ON
Filed: 26 November, 2003	: PETITION
Atty Docket No. 5649-1218	:

This is a decision in reference to the petition filed on 7 February, 2005, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above identified application be accorded a filing date of 25 November, 2003, rather than the currently-accorded filing date of 26 November, 2003.

The petition is **dismissed**.

On 26 November, 2003, the application was filed. On 18 January, 2005, the petition filed on 3 January, 2005, was granted, and the application was accorded a filing date of 26 November, 2003, the date that the application papers were shown to have been received in the Office.

Petitioners assert that the application papers were deposited with the USPS in Express Mail service on 25 November, 2003.

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or

other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

In regards to paragraph (3) above, petitioner must submit a true copy of the "Express Mail" mailing label showing the "date-in" and any other official notation by the USPS relied upon to show the date of deposit.

With regard to petitioners' reference to a "Certificate of Express Mailing" on the application transmittal sheet, petitioners are reminded that there is no provision in the rules for use of a certificate of mailing when application papers are sent by Express Mail service.[1]

Additionally, petitioners may not rely on the USPS Track & Confirm printout showing only the date of delivery (26 November, 2003) as evidence of the date of acceptance of the application. The mere fact that the application was delivered by the USPS on 26 November, 2003, is not proof that the application papers were deposited with the USPS on 25 November, 2003. Rather, petitioners must provide documentation showing the date the application was deposited with the USPS. Petitioners may wish to consider obtaining from the USPS a copy of the record showing when the application was *deposited* with the USPS, and submitting said record with a renewed petition.

In light of the lack of evidence showing that the application papers were deposited with the USPS on 25 November, 2003, the petition is <u>dismissed</u>.

As no fee is due for petitions filed under 37 CFR 1.10, no fee has been charged.

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

---

[1]The requirement of 37 CFR 1.10(c) for a certificate of mailing has been waived by the Commissioner. <u>See</u> 1174 O.G. Pat. Of. 92 (May 16, 1995).

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 specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
POST OFFICE BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 10/721,480	:	DECISION GRANTING PETITION
Filed: 25 November, 2003	:	
Atty Dckt No. 5649-1218	:	

This is a decision in reference to the renewed petition filed on 13 April, 2005, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 25 November, 2003, rather than the currently-accorded filing date of 26 November, 2003.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail Service on 25 November, 2003. In support, petitioners supplied, with the present renewed petition, a letter from the USPS, signed by Donna Mullins, Administrative Clerk for Expedited Services for the USPS, Raleigh, NC, stating that Express Mail Label No. EV318417427US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) was mailed from the USPS Crabtree Station on 25 November, 2003. Additionally, petitioners have included a printout from the USPS's Intranet Track/Confirm database showing that the above-identified Express Mail shipment was accepted by the USPS on 25 November, 2003.

As such, the showing of record is that the correct date of deposit in Express Mail is 25 November, 2003.

In view of the above, the petition is granted. No fee is required and none has been charged.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 25 November, 2003, and for issuance of a corrected Filing Receipt.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 10827
GREENVILLE, SC 29603

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OFFICE OF PETITIONS

In re Application of	:	
Dave Porter	:	
Application No. 10/721,485	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO WITHDRAW
Attorney Docket No. 032234.00009	:	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 23, 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 Henry S. Jaudon on behalf of all attorneys of record who are associated with Customer No. 27863.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Dave Porter
Porter Technologies
311 Industrial Drive
Greenville, SC 29606

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

MCNAIR LAW FIRM
P.O. BOX 10827
GREENVILLE, SC 29603

COPY MAILED

MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Dave Porter	:	
Application No. 10/721,485	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO WITHDRAW
Attorney Docket No. 032234.00009	:	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 23, 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 Henry S. Jaudon on behalf of all attorneys of record who are associated with Customer No. 27863.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Dave Porter
Porter Technologies
311 Industrial Drive
Greenville, SC 29606

RECEIVED

JUN 16 2006

OFFICE OF PETITIONS

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

Mail Date: 04/20/2010

Applicant	: Timothy P. Mate	: DECISION ON REQUEST FOR
Patent Number	: 7657301	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1121** 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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Lawrence P. Trapani ESQ.
P.O.BOX 555
MANLIUS NY 13104-0555

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JAN 23 2007

OFFICE OF PETITIONS

In re Patent No. 6,888,423	:	
Issue Date: May 3, 2005	:	
Application No. 10/721,492	:	NOTICE
Filed: November 25, 2003	:	
Attorney Docket No.: 450-066PD	:	

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/721,517	11/25/2003	3651	856	BRIXIUS-5	2	13	4

CONFIRMATION NO. 5330

CORRECTED FILING RECEIPT

OC000000016715028

020151
HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

Date Mailed: 08/08/2005

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)

Wolfgang Brixius, Neunkirchen A.Br, GERMANY;
Dominik Grafer, Nurnberg, GERMANY;
Albrecht Hoene, Lappersdorf, GERMANY;

Assignment For Published Patent Application

SIEMENS AKTIENGESELLSCHAFT, Munchen, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **020151**.

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102 55 344.0 11/27/2002

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 US10/721,517

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

TRANSPORT SYSTEM FOR ARTICLES, IN PARTICULAR CONTAINERS FOR BAGGAGE PIECES, AND CONTROL METHOD FOR THE TRANSPORT SYSTEM

Preliminary Class

198

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/721,518	11/25/2003	3739	856	17280	21	9	4

CONFIRMATION NO. 5316

CORRECTED FILING RECEIPT

OC000000012399804

23389
SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

Date Mailed: 04/20/2004

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

Applicant(s)

Koji Yamaya, Tokyo, JAPAN;
Haruhiko Ueno, Tokyo, JAPAN;
Koji Nakamoto, Tokyo, JAPAN;
Hisao Yabe, Tokyo, JAPAN;

Assignment For Published Patent Application

Olympus Corporation, Tokyo, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-344216 11/27/2002
JAPAN 2002-364204 12/16/2002
JAPAN 2002-364205 12/16/2002
JAPAN 2002-365730 12/17/2002

If Required, Foreign Filing License Granted: 02/24/2004

Projected Publication Date: 06/03/2004

Non-Publication Request: No

Early Publication Request: No

Title

Endoscope apparatus

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).

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SEP 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COWAN LIEBOWITZ & LATMAN PC
JOHN J. TORRENTE
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of
Chester Kilton, et al.
Application No. 10/721,520
Filed: November 24, 2003
For: ELECTRONIC ARTICLE SURVEILLANCE MARKER ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed June 21, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/17/08

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: 10721524 Patent No.: 7397097 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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.

Formatted: Bullets and Numbering

Comments: _____

SPE /Sue Purvis/ Art Unit 2826

Deleted:

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

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DEC 1 1 2006

OFFICE OF PETITIONS

In re Application of :
David w. Boykin et al :
Application No. 10/721,525 :
Filed: November 25, 2003 :
Attorney Docket No. 421/60/21/2 :

ON PETITION

This is a decision on the petition, filed December 7, 2006 and resubmitted on December 12, 2006, under 37 CFR 1.313(c)(1) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

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

This matter is being referred to Technology Center AU 1625.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. _____

Date : December 11, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David W. Boykin et al
Application No. :10/721,525
Filed :November 25, 2003

The above-identified application has been assigned Patent No. 7,148,241 and an issue date of December 12, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 12, 2006:

"All reference to Patent No. 7,148,241 to David W. Boykin et al of Georgia for DICATIONIC 2,5-DIARYLFURAN AZA-ANALOGOS AS ANTI-PROTOZOAN AGENTS appearing in the Official Gazette of December 12, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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SPECIALIZED HEALTH PRODUCTS INC
C/O INTELLEVATE
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Smith, et al.	:	
Application No. 10/721,526	:	ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. SHP026.4.1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 20, 2005.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 30, 2005. This Office action set a statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were available. No issue fee having been received, the above identified application became abandoned on March 1, 2006. A Notice of Abandonment was mailed on April 13, 2006.

Petitioner states that a search of the file jacket and docket records indicates that a Notice of Allowance was not received for this application. In addition, petitioner has included a copy of a 1 page docket report for the instant application.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

If petitioner can not establish that the Notice of Allowance was not received, petitioner may revive the application 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); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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United States Patent and Trademark Office
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SPECIALIZED HEALTH PRODUCTS INC
C/O INTELLEVATE
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Smith, et al.	:	
Application No. 10/721,526	:	ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. SHP026.4.1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 26, 2006.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 30, 2005. This Office action set a statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were available. No issue fee having been received, the above identified application became abandoned on March 1, 2006. A Notice of Abandonment was mailed on April 13, 2006. Applicants filed a petition to withdraw the holding of abandonment on April 13, 2006. However, the petition was dismissed in a decision mailed on May 23, 2006. Applicants failed to supply of proper docket report.

With the instant petition, applicants filed a copy of a docket report "Reminder List", evidencing that the Notice of Allowance was not received.

In view thereof, the holding of abandonment is **WITHDRAWN**.

The matter is being forwarded to Group Art Unit 3763 for re-mailing of the Notice of Allowance and Notice of Allowability, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. None

Jarett K. Abramson
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh NC 27627

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MAY 28 2004
OFFICE OF PETITIONS

In re Application of	:	
Tal Kafri et al.	:	
Application No. 10/721,563	:	DECISION ON PETITION
Filed: November 25, 2003	:	UNDER 37 C.F.R. §1.10(C)
Attorney Docket No. 9435-2	:	
Title: SINGLE LTR LENTIVIRUS	:	
VECTOR	:	

This is a decision on the petition under 37 C.F.R. §1.10(c), submitted on March 22, 2004, requesting that the application be accorded a filing date of November 25, 2003.

Shortly after November 25, 2003, the above-identified application was received in the Office. On March 10, 2004, the Office of Initial Patent Examination (OIPE) then mailed a Notice to File Corrected Application Papers (notice), indicating that replacement drawings would be required. The notice indicated that the application had been accorded a filing date of November 26, 2003.

In response, on March 22, 2004, applicants filed the present petition. Petitioners have replacement drawings and have included a copy of the Express Mail Label having a number of EV318418626US[1]. Applicants request that the application be accorded a filing date of November 25, 2003.

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

Petitioner has alleged that the application was deposited on November 25, 2003, and the Patent Office has incorrectly assigned a filing date of November 26, 2003 to the instant application.

Regarding the Express Mail label, it is noted that the label contains a "date-in" of November 25, 2003. A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) has shown that the package was accepted on November 25, 2003. A print-out of this latter search result has been enclosed.

Although the application received a filing date of November 26, 2003, the evidence is convincing that the application papers were filed on November 25, 2003, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of November 25, 2003.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 25, 2003, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

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

Encl. Print-out of United States Postal Service's website tracking results

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UNITED STATES DEPARTMENT OF COMMERCE
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BRINKS HOFER GILSON & LIONE/INDY/COOK
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

Mail Date: 04/21/2010

Applicant	: Joseph F. Obermiller	: DECISION ON REQUEST FOR
Patent Number	: 7597710	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,582	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Motoyasu Watanabe	:	
Application No. 10/721,591	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. CFP-2142 (15722/603)	:	

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

The above-identified application became abandoned for failure to submit the publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due mailed August 6, 2004.

In response, petitioner hereby submits $750 for the petition to revive fee, $300 for payment of the publication fee, and the statement of unintentional delay as required by 37 CFR 1.137(b).

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

There is no indication that petitioner has submitted a Part B - Fee(s) Transmittal (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached form should be completed and returned to the Office of Publications within **ONE MONTH** from the mail date of this decision.

The application file is being referred to the Office of Publications for further processing into a patent.

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

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

Enclosure: Part B - Fee(s) Transmittal (PTOL-85)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/07/07 Resubmitted

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/721601** Patent No.: **7052279**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE — 3711 Art Unit

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GREENSFELDER HEMKER & GALE PC
SUITE 2000
10 SOUTH BROADWAY
ST LOUIS MO 63102

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Patent of	:	
Gregory Scott Riggs	:	
Application Number: 10/721,618	:	DECISION ON PETITION
Patent: 6,966,389	:	
Filing Date: November 25, 2003	:	
Issue Date: November 22, 2005	:	

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.322 filed on February 27, 2006. The petition is properly treated under 37 CFR 3.81 (b)[1] to delete the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

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D. JAMES CHUNG OF SILICON EDGE LAW GROUP LLP
SUITE 245
6601 KOLL CENTER PARKWAY
PLEASANTON, CA 94566

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JUL 27 2006

OFFICE OF PETITIONS

In re Application of :
Ban P. Loh :
Application No. 10/721,654 : ON PETITION
Filed: November 25, 2003 :
Attorney Docket No. P0277 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 21, 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 22, 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(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 petition submitted January 26, 2006 was not signed. Accordingly, the petition to revive cannot be granted until the outstanding requirement(s) is received.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed

in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: D. James Chung
225 South Lake Avenue, Suite 800
Pasadena, CA 91101

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OFFICE OF PETITIONS

D. JAMES CHUNG OF SILICON EDGE LAW GROUP LLP
SUITE 245
6601 KOLL CENTER PARKWAY
PLEASANTON, CA 94566

In re Application of	:	
Ban P. Loh	:	
Application No. 10/721,654	:	ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. P0277	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 21, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 22, 2005.

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

This matter is being referred to Technology Center AU 2814 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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D. JAMES CHUNG OF SILICON EDGE LAW GROUP, LLP
6601 KOLL CENTER PARKWAY, SUITE 245
PLEASANTON, CA 94566

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JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
LOH, Ban P.	:	
Application No. 10/721,654	:	DECISION ON PETITION
Filed: November 25, 2003	:	TO WITHDRAW
Attorney Docket No. **1485/37/2**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2007.

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

A review of the file record indicates that the power of attorney to **SILICON EDGE LAW GROUP, 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 the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JENKINS WILSON TAYLOR & HUNT, PA**
3100 TOWER BOULEVARD, SUITE 1200
UNIVERSITY TOWER
DURHAM, NC 27707

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

Mail Date: 04/20/2010

Applicant	: Siddhartha Panda	: DECISION ON REQUEST FOR
Patent Number	: 7645356	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **378** 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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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
O'Donnell et al. :
Application No. 10/721682 :
Filing or 371(c) Date: 11/25/2003 : ON PETITION
Pat. Num.: 7255155 :
Issue Date: 08/14/2007 :
Attorney Docket Number: 14-792C2D1 :

This is a notice regarding 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**[1].

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

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant's deposit account has been charged an additional $40.00 for the deficient fee amount. See, 37 CFR 1.28(c)(2)(i).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/15/09

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/721682 Patent No.: 7255155 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

SPE

3744
Art Unit

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SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107-2950

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Andrew Wallace, et. al.	:	
Application No. 10/721,684	:	NOTICE
Filed: November 25, 2003	:	
Attorney Docket No. P27,267-A USA	:	

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

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

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

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

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

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

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OCT 1 1 2005

OFFICE OF PETITIONS

BRUCE E. WEIR
12 SPARROW VALLEY COURT
MONTGOMERY VILLAGE, MD 20886-1265

In re Application of	:	
Karl Reinitz	:	DECISION ON PETITION
Application No. 10/721,691	:	TO MAKE SPECIAL
Filed: November 26, 2003	:	37 CFR 1.102(c)
Attorney Docket No. 0121	:	

This is a decision on the petition under 37 CFR §1.102(c), filed July 12, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special asset forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant 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 copies of birth certificate, passport, and driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3731 for expedited prosecution.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRUCE E. WEIR
12 SPARROW VALLEY COURT
MONTGOMERY VILLAGE, MD 20886-1265

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OCT 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Karl Reinitz	:	
Application No. 10/721,691	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. 0121	:	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 15, 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 Bruce E. Weir on behalf of all attorneys of record who are associated with customer No. 32366.

All attorneys/agents associated with the Customer Number 32366 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.

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KARL REINITZ
75 SHERIDAN ROAD
ARNOLD, MD 21012

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
10/721,691	11/26/2003	Karl Reinitz	0121

CONFIRMATION NO. 6148

OC000000026173597

32366
BRUCE E. WEIR
12 SPARROW VALLEY COURT
MONTGOMERY VILLAGE, MD 20886-1265

Date Mailed: 10/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/15/2007.

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

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

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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Fox Rothschild, LLP
997 Lenox Drive
Lawrenceville NJ 08648

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JUN 1 2 2008

OFFICE OF PETITIONS

In re Application of :
William F. Kaemmerer :
Application No. 10/721,693 : ON PETITION
Filed: November 25, 2003 :
Attorney Docket No. :
48169.00016/P0011089.00

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed October 1, 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 January 5, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on October 1, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1635 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.

Chris Bottorff

Chris Bottorff
Petitions Examiner
Office of Petitions

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it 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) 48169.00016/P0011089.00

OIPE IAP21 OCT 0 1 2007 PATENT & TRADEMARK OFFICE

First named inventor: William F. Kaemmerer

Application No.: 10/721,693

Art Unit: 1635

Filed: November 25, 2003

Examiner: Louis Wollenberger

Title: Treatment of Neurodegenerative Disease Through Intracranial Delivery of siRNA

Adjustment date: 06/12/2008 CKHLOK
10/03/2007 EAYALEW1 00000011 501943 10721693
01 FC:1253 1050.00 CR

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 $ 1500.00 (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 Amendment and Response (identify type of reply):

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

10/03/2007 EAYALEW1 00000011 501943 10721693
03 FC:1453 1540.00 DA

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	October 1, 2007 Date
Shahnam Sharareh Typed or printed name	59,040 Registration Number, if applicable
Fox Rothschild LLP Address	(609) 844-3020 Telephone Number
997 Lenox Drive, Building 3, Lawrenceville, NJ 08648 Address	

Enclosures:
- ☐ Fee Payment
- ☑ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☑ Other: Transmittal, Extension of Time, RCE, Attachments 1-5 and Postcard.

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~~ Express mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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

October 1, 2007 Date	Signature
	Cheryl L. Powell Typed or printed name of person signing certificate

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 06/11/08

2 Serial/Patent # 10/721,693

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		10/01/07	$ 1,050.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,050.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 1 9 4 3

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension of time unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: Terri Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhoo DATE: 6/12/08

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kenneth J. Collier - c/o Kathy Illg
Medtronic, Inc.
710 Medtronic Parkway NE
Mail Stop LC-340
Minneapolis, MN 55432

Mail Date: 04/21/2010

Applicant	: William F. Kaemmerer	: DECISION ON REQUEST FOR
Patent Number	: 7605249	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,693	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **49** 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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OFFICE OF PETITIONS

NGUYEN & ASSOCIATES
16168 Blossom Hill Road
Los Gatos, CA 95032

In re Application of	:	
PRABHAKAR, et al.	:	
Application No. 10/721,709	:	DECISION ON PETITION
Filed: November 25, 2003	:	TO WITHDRAW
Attorney Docket No. NVDA-013	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 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 Frank Nguyen on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The revocation filed July 24, 2006 is not acceptable as the 3.73(b) statement is inaccurate because office records indicate the invention was assigned from the inventors to NVIDIA Corporation not MEDIA Q Inc.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Ram Prabhakar**
2079 Edgewood Drive
Palo Alto, CA 94303

cc: **Wagner, Murabito & Hao, LLP**
Two North Market Street, 3rd Floor
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/721,709	11/25/2003	Ram Prabhakar	NVDA-013

CONFIRMATION NO. 6307

OC000000020132884

NGUYEN & ASSOCIATES
16168 Blossom Hill Road
Los Gatos, CA 95032

Date Mailed: 08/22/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAM PRABHAKAR
2079 EDGEWOOD DRIVE
PALO ALTO CA 94303

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Prabhakar, et al.	:	
Application No. 10/721,709	:	ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. NVDA-013	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 20, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed January 24, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on April 25, 2009. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2621 for consideration of the Amendment, filed January 20, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 28 2007

OFFICE OF PETITIONS

AVON PRODUCTS, INC.
AVON PLACE
SUFFERN, NY 10901

In re Application of
Christian J. Lee, et al.
Application No. 10/721,728
Filed: November 25, 2003
Attorney Docket No. CR30Q-US

ON PETITION

This is a decision in response to the petition, filed July 31, 2007, 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 May 23, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was subsequently mailed on July 11, 2007. On July 31, 2007 the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

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 1615 for consideration of the response filed July 31, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

IFW

OIPE JC46
JUL 07 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	10/721,731
Filing Date	November 25, 2003
First Named Inventor	BORDAN, Nancy C.
Art Unit	1723
Examiner Name	SOOHOO, Tony Glen
Attorney Docket Number	47126-0004

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

Approved 10/14/05
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700

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

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

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

The reasons for this request are: Non-payment of invoices by inventor

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name	Mrs. Nancy C. Bordan				
Address	518 S.W. 6th Avenue				
City	Ft. Lauderdale	State	Florida	Zip	33315
Country	U.S.A.				
Telephone		Email			

Signature			
Name	Stanley A. Kim, Ph.D., Esq.	Registration No.	42,730
Date	July 5, 2005	Telephone No.	561-838-4512

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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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Boyd et al.	:	
Application No. 10/721,743	:	DECISION REFUSING STATUS
Filed: November 26, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 82001-0397	:	
Title: Configurable Pricing Optimization System	:	
	:	

This is in response to the petition filed September 27, 2004.

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

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

The above-identified application was filed on November 26, 2003, without an executed oath or declaration. Accordingly, on February 26, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of April 26, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration and the declaration of attorney Nelson. To make the reply timely, a five (5) month extension of time was also submitted. In support of the petition, applicants submitted a copy of federal express receipts and correspondence mailed to non-signing inventors.

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

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship of all of the inventors pursuant to 37 CFR 1.63 (a)(3). Specifically, petitioner failed to provide the citizenship of inventor Balepur. On renewed petition, a newly executed declaration is required.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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AUG 0 3 2005
OFFICE OF PETITIONS

In re Application of Dean Boyd, Prashandt Balepur, Henry Schwarz, Philip Apps, Ravishankar Nandiwada, Brian Monteiro, Thomas Guardino and Mark Cooke Application No.10/721,743 Filed: November 26, 2003 Attorney Docket Number: 82001-0397 Title of Invention: Configurable Pricing Optimization System	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a) AND 37 CFR 1.183

This is in response to the renewed petition under 37 CFR 1.47(a) filed February 17, 2005 and supplemented March 4, 2005. The petition is properly treated as a petition under 37 CFR 1.47 and a petition for waiver under 37 CFR 1.183 of requirement for supplemental Declaration under 37 CFR 1.67 filed May 27, 2005.

The petition under 37 CFR 1.47(a) is GRANTED.
The petition under 37 CFR 1.183 is GRANTED.

Petition under 37 CFR 1.47

Petitioner has shown that the non-signing inventors Boyd, Guardino and Balepur have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition and evidence presented shows that correspondence sent to the non-signing inventors was received and the non-signing inventors refuse to execute the application papers.

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

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

Petition under 37 CFR 1.183

Once an oath or declaration has been executed by an inventor the provisions of 37 CFR 1.47 no longer apply. Rather the remedy for treating an inventor's refusal to sign a supplemental declaration is waiver of 37 CFR 1.67. See MPEP 603. Nevertheless, it is appropriate to apply the principles of 37 CFR 1.47 thereof to the situation at hand. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate and on behalf of the non-signing inventor. See MPEP 409.03(a).

On petition, applicants have set forth the steps taken to obtain Schwarz, Apps and Monteiro signature on the supplemental declaration. Applicants have shown that a *bona fide* effort was made to present the supplemental declaration and supporting documentation to the inventors (Schwarz, Apps and Monteiro) for signature and that by her conduct, inventors have refused to execute the declaration. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

This application does not have any Rule 1.47(a) status as to inventors Schwarz, Apps, Monteiro.

Petitioner has submitted a $200.00 petition fee. The current petition fee is $400.00. Pursuant to petitioner's request deposit account 50-1349 will be charged the $200 difference towards the $400.00 petition fee.

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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Prashandt Narayan Balepur
1606 Pala Ranch Circle
San Jose, California 95133

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OFFICE OF PETITIONS

In re Application of
Dean Boyd, Prashandt Balepur, Henry Schwarz, Philip Apps, Ravishankar Nandiwada, Brian Monteiro, Thomas Guardino and Mark Cooke
Application No.10/721,743
Filed: November 26, 2003
Attorney Docket Number: 82001-0397
Title of Invention: Configurable Pricing Optimization System

: LETTER

Dear Mr. Balepur:

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004
ATTN: CELINE JIMENEZ CROWSON

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas E. Guardino
1033 Forrester Way
Eugene, Oregon 97401-5190

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
Dean Boyd, Prashandt Balepur, Henry Schwarz, Philip Apps, Ravishankar Nandiwada, Brian Monteiro, Thomas Guardino and Mark Cooke
Application No.10/721,743
Filed: November 26, 2003
Attorney Docket Number: 82001-0397
Title of Invention: Configurable Pricing Optimization System

: LETTER

Dear Mr. Guardino:

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004
ATTN: CELINE JIMENEZ CROWSON

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dean Boyd
6425 Wagner Lane
Cottage Grove, Oregon 97424-9428

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
Dean Boyd, Prashandt Balepur, Henry Schwarz, Philip Apps, Ravishankar Nandiwada, Brian Monteiro, Thomas Guardino and Mark Cooke
Application No.10/721,743
Filed: November 26, 2003
Attorney Docket Number: 82001-0397
Title of Invention: Configurable Pricing Optimization System

: LETTER

Dear Mr. Boyd:

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004
ATTN: CELINE JIMENEZ CROWSON

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Apr-10

POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

MAILED
APR 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Bedard et al.	:	
Application Number: 10/721764	:	ON PETITION
Filing Date: 11/25/2003	:	
Attorney Docket Number:	:	
055722.000100.04USCP	:	

This is a decision on the petition under 37 CFR 1.137(b) filed on February 1, 2010.

The petition is **GRANTED**.

This application became abandoned on January 17, 2010, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on October 16, 2009, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on February 2, 2010.

Receipt of the issue and publication fees is acknowledged.

The address in the petition is different from the correspondence address. 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. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is forwarded to the Office of Data Management 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

Cc:

RON GALANT, PH.D.
161 N. CLARK ST, SUITE 4200
CHICAGO IL 60601

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-24-06

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/721768 Patent No.: D604758

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

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

please check COIS.

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

E Young

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: _____

Gene Kim

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/26/2010

Applicant	: Richard T. Raines	: DECISION ON REQUEST FOR
Patent Number	: 7596512	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/721,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **889** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/24/08

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/721793 Patent No: 7335759B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: The Certificate of Correction filed May 15, 2008 is approved.

/Anand Desai/
Patent Examiner Art Unit 1656

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27420

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of	:
Mertens et al.	:
Application No. 10/721,821	: DECISION GRANTING PETITION
Filed: November 25, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5003073-049US1	:

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of prior-filed PCT Application No. PCT/EP02/05799, filed on May 27, 2002, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and ADS, respectively.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.55(c) is **DISMISSED AS MOOT**.

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

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

The instant pending application was filed on November 25, 2003, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that 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.

The instant petition under 37 CFR 1.55(c) is unnecessary since the claim for foreign priority was timely made in the oath or declaration as required by 37 CFR 1.63(c)(2) and within the time period provided by 37 CFR 1.55(a)(1). The current procedure where a claim for priority under 37 CFR §§ 1.55(a)(1) 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.

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482 or at (571) 272-3206 after September 28, 2004.

This application is being forwarded to Technology Center Art Unit 1754 for appropriate action on the amendment filed July 7, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed PCT application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH W. BERENATO, III
LINIAK BERENATO & WHITE, LLC
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

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MAR 2 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Edmund Radmacher, et al.	:	
Application No. 10/721,826	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 16202.970	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571) 272-3213.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTHEW E. CONNORS
GAUTHIER & CONNORS LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

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MAR 0 8 2007

OFFICE OF PETITIONS

In re Application of	:
Solomon Assefa et al	:
Application No. 10/721,841	: DECISION GRANTING PETITION
Filed: November 25, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. MIT10307	:

This is a decision on the petition, filed November 24, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 17, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the

USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 2828.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DARRELL F. MARQUETTE
2201 W. DESERT COVE
PHOENIX, AZ 85029

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Randall B. Noble	:	
Application No. 10/721,854	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. KMC-606	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed March 22, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 23, 2005.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of
Leon Bottou et al
Application No. 10/721,863
Filed: November 26, 2003
Attorney Docket No.
112817CON-2 (ATT.0140002)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 1, 2006, as required by the Notice of Allowance and Fee(s) Due mailed September 1, 2006. Accordingly, the date of abandonment of this application is December 2, 2006. A Notice of Abandonment was mailed on December 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that petitioner herein was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Publishing Division via Technology Center AU 2624 for appropriate action on the amendment under 37 CFR 1.312 filed April 12, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Thomas M. Isaacson
10415 Southern Maryland Boulevard
Dunkirk, MD 20754

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 10/21/08

Patent No. : 7346957 B2
Ser. No. : 10/721,878
Inventor(s) : NAKAMOTO, HIROSHI
Issued : 03/25/08
Title : **VACUUM CLEANER**
Docket No. : **NAKA3010/JJC/PMB**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

LMN

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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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MAY 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,346,957 :
Issue Date: March 25, 2008 :
Application No. 10/721,878 : ON PETITION
Filed: November 26, 2003 :
Patentee(s): Hiroshi Nakamoto, et. al. :

This is a decision on the request under 37 CFR 3.81[1], filed October 31, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the present request complies with the requirements of 37 CFR 3.81, the request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

SPE: D. Gray

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/3/07

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/721,891 Patent No.: 7085524

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: 1. For Cover Page at Item (56) RC, the examiner disapproves the correction because the correct Patent date is 7/2002.

2. For Column 5, Line 52, the examiner disapproves the correction because "for Blush" is not disclosed here.

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Alterman et al.	:	
Application No. 10/721,892	:	
Filed: November 26, 2003	:	ON APPLICATION FOR
Attorney Docket No. 2052.0485-00	:	PATENT TERM ADJUSTMENT
Title: Tricycle Compounds Useful As Angiotensin II Agonists	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT- PRE-GRANT" filed September 3, 2009. This petition is properly treated under 37 C.F.R. §1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand seventeen (1,017) days, not one hundred seventy-nine (179) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §

1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

---

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

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

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Mathias Alterman	: DECISION ON REQUEST FOR
Patent Number	: 7652054	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,892	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **828** 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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SYNTHES
1302 WRIGHTS LANE EAST
WEST CHESTER, PA 19380

Mail Date: 04/21/2010

Applicant	: Alfred Niederberger	: DECISION ON REQUEST FOR
Patent Number	: 7655029	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,895	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1375** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-25-2010

TO SPE OF : ART UNIT 2153

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/721905 Patent No.: 7421470

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

Should priority claim in item [63] be entered?

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: _____

[signature]
SPE

2448
Art Unit

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Patterson et al.	:	
Application No. 10/721,910	:	
Filed: November 24, 2003	:	
Attorney Docket No. 51592/DMC/V165	:	

This is a decision on the petition filed August 25, 2004, to accord the above-identified application a filing date of November 24, 2003, instead of November 26, 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 24, 2003.

The Office of Initial Patent Examination will be informed of the instant decision and will accord the application a filing date of November 24, 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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JAMES D. HALL
BOTKIN & HALL, LLP
105 E. JEFFERSON BLVD.
SUITE 400
SOUTH BEND IN 46601

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
John B. Gordon et al. :
Application No. 10/721,919 : ON PETITION
Filed: November 24, 2003 :
Attorney Docket No. 157-005 GORDON :

This is a decision on the petition filed September 8, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned August 19, 2005 for failure to timely pay the issue fee on or before August 18, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee and petition fee, in accordance with 37 CFR 1.18, have been posted to the finance records for this application. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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.

(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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LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

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FEB 09 2006

OFFICE OF PETITIONS

Applicant: Pompejus et al.
Appl. No.: 10/721,922
Filing Date: November 24, 2003
Title: CORYNEBACTERIUM GLUTAMICUM GENES ENCODING PROTEINS INVOLVED IN HOMEOSTASIS AND ADAPTATION
Attorney Docket No.: BGI-132CPCN
Pub. No.: US 2005/0191732 A1
Pub. Date: September 1, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 1, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the preliminary amendment to the benefit/priority claim, which was submitted to correct the priority claim on March 24, 2004, was not included in the publication. The filing date of the German priority documents was changed from July 2, 1999 to July 14, 1999.

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]

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication <u>may</u> now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See <u>Patent Application Publications May Now Include Amendments</u>, 1281 <u>Off. Gaz. Pat. Office Notices</u> 53 (April 13, 2004). The preliminary amendment filed March 24, 2004 did not comply with 37 CFR 1.125. The applicant did not supply a copy of the application in compliance with 37 CFR 1.215(c). The Office correctly published the application in accordance with 37 CFR 1.215(a).

The application was correctly published. The instant application listed the priority dates for application 19932914.1 and 19933006.9 as July 9, 2004 in the first line of the specification and the application data sheet (ADS). Requester argues that the correct date was given in the oath, which was also filed with the application. According to 37 CFR 1.76(d), the ADS controls if conflicting information is provided on the ADS and the oath.

To make a benefit/priority claim, 37 CFR 1.78 in summary requires that the benefit claim to an earlier filed application be contained in the first sentence of the application or be submitted in an

---

[2] <u>Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan</u>; Final Rule, 69 FR 56482 (Sept. 21, 2004).

amendment or application data sheet within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. According to 37 CFR 1.55, the priority claim must identify the foreign application and filing date, within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. [3] Since a proper benefit claim to an earlier filed application was not made within the required time period, it was not properly published on the patent application publication.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1370) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on November 1, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

It would greatly benefit the Office if applicant did not provide a complete copy of the preliminary amendments and a copy of the pre-grant publication, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

---

[3] See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SUITE 150
3140 RED HILL AVENUE
COSTA MESA, CA 92626-3440

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Marvin P. Loeb :
Application No. 10/721,927 :
Filed: November 24, 2003 :
Attorney Docket No. Loeb.M-03 :

This is a decision on the petition, filed December 27, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment was included with the petition filed on December 27, 2006. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

This decision is made without prejudice to reconsideration. However, 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

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the required reply as noted above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

cc: GENE SCOTT
2424 BRISTOL ST., SUITE 300
NEWPORT BEACH, CA 92660

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In re Application of
Christopher M. Anderson
Application No. 10/721,928
Filed: November 24, 2003
Attorney Docket No. 091-0204

ON PETITION

This is a decision in response to the petition, filed January 7, 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 April 6, 2007. A Notice of Abandonment was mailed October 17, 2007. In response, on January 7, 2008, the present petition was filed, along with an amendment, 3-month extension of time and a Revocation and Power of Attorney.

The Revocation and Power of Attorney filed January 7, 2008, has not been accepted, as it is filed on behalf of the assignee and does not include an appropriate statement under 37 CFR 3.73(b). However, in accordance with 37 CFR 1.34(a), the signature of David R. Fairbaim 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. However, if Mr. Fairbaim desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

The 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) an adequate statement of unintentional delay[1].

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.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

In view thereof, the $1,050 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

The application is being referred to Technology Center AU 1795 for consideration of the response filed January 7, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID R. FAIRBAIRN
KINNEY & LANGE
THE KINNEY & LANGE BUILDING
312 S THIRD STREET
MINNEAPOLIS, MN 55415-1002

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Commissioner for Patents
United States Patent and Trademark Office
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312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

In re Application of	:	
Christopher M. Anderson	:	
Application No. 10/721,929	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. U74.12-0068	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 30, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed September 19, 2007. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the application became abandoned by operation of law on December 20, 2007. The Office mailed a Notice of Abandonment on May 29, 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 July 20, 2007.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The Power of Attorney filed July 20, 2007, has been entered. Future correspondence concerning this application will be mailed to the above address of record.

The matter is being forwarded to Group Art Unit 1795 for consideration of the Amendment, filed July 30, 2008.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MINNEAPOLIS, MN 55415-1002

Mail Date: 04/21/2010

Applicant	: Christopher M. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7605326	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1617** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TECHNOLOGY CENTER 2600

In re Application of :
LOCE, ROBERT P., et al :
Serial No.: **10/721,948** : DECISION ON PETITION
Filed: November 25, 2003 : *ACCEPTANCE OF COLOR DRAWINGS*
For: **ILLUMINANT-NEUTRAL GRAY COMPONENT REPLACEMENT IN SYSTEMS FOR SPECTRAL MULTIPLEXING OF SOURCE IMAGES TO PROVIDE A COMPOSITE IMAGE, FOR RENDERING THE COMPOSITE IMAGE, AND FOR SPECTRAL DEMULTIPLEXING OF THE COMPOSITE IMAGE**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, November 25, 2003, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 9 -14, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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United States Patent and Trademark Office
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Wanshi Chen	: DECISION ON REQUEST FOR
Patent Number	: 7573856	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/721,951	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1659** 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

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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OFFICE OF PETITIONS

In re Application of
Subramanyam Vdaygiri et al.
Application No. 10/721,957
Filed: November 25, 2003
Attorney Docket No.: 2002P19339 US01
Title: METHOD AND SYSTEM FOR OFF-LINE, ON-LINE, AND INSTANT-MESSAGE-BASED MULTIMEDIA COLLABORATION

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 January 18, 2005, 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 26, 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 27, 2004. A Notice of Abandonment was mailed on December 1, 2004.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the petition, Petitioner has submitted the petition fee, a declaration and the surcharge associated with the late filing of the same, and a statement which is being interpreted as 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

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OFFICE OF PETITIONS

In re Application of	:	
Simon R. Kelemen et al	:	
Application No. 10/721,958	:	DECISION ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. RDH-0319	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 14, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)-(A)(2)(b). 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 July 15, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 2856 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Mabrouk Quederni and Paul L. Latten
Application No. 10/721,964
Filed: November 25, 2003
Attorney Docket No. 2000-16 CIP-2
Title: AIR-LAID WEB WITH HOLLOW SYNTHETIC FIBERS

DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 25, 2003.

On November 25, 2003, the application was deposited, identifying Mabrouk Quederni and Paul L. Latten as joint inventors. The application was deposited without a fully executed oath or declaration[2]. The instant petition was submitted along with the filing of the application.

With the instant application, petitioner submitted the last known address of the non-signing inventor, an affidavit executed by the signing inventor, and the petition fee, which has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1), (3), and (5) above. As the instant petition was included on filing, requirement (2) above is not applicable.

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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 Joint inventor Quederni did not execute the declaration.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.*

The declarants set forth that the non-signing inventor has left the employ of the purported assignee,[3] and moved to Tunisia[4]. Petitioner has concluded there is no reasonable method with which to reach the non-signing inventor[5]. Petitioner has added that "after conducting a due diligence investigation to determine the whereabouts of Mabrouk Quederni, he was unable to be located[6]."

As no details of the search have been provided, it appears that no search was undertaken. As such, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor, because no mention is made as to any search done for the non-signing inventor. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[7].

For this reason, 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, and must contain evidence that a diligent search was conducted for the non-signing joint inventor, except for if the reply consists of a declaration which has been executed by the formerly non-signing inventor. 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 §1.47(a)."

The reply to this letter may be submitted by mail[8], hand-delivery[9], or facsimile[10].

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the

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3 It is noted that no assignment documents have been recorded with the Office.
4 Affidavit of Paul Latten, paragraph 5.
5 Id..
6 Petition, pages 2-3.
7 See MPEP 409.03(d).
8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
10 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Application of	:	
Mabrouk Ouederni and Paul L. Latten	:	
Application No. 10/721,964	:	DECISION ON RENEWED PETITION
Filed: November 25, 2003	:	UNDER 37 C.F.R. §1.47(a)
Attorney Docket No. 2000-16 CIP-2	:	
Title: AIR-LAID WEB WITH HOLLOW	:	
SYNTHETIC FIBERS	:	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed May 3, 2004.

On November 25, 2003, the application was deposited, identifying Mabrouk Quederni and Paul L. Latten as joint inventors. The application was deposited without a fully executed oath or declaration[2]. The instant petition was submitted along with the filing of the application.

The original petition, filed November 25, 2003, was dismissed via the mailing of a decision on March 8, 2004, for failure to establish that diligent efforts were made to locate the non-signing inventor.

With the renewed petition, Petitioner has submitted the results of an Internet search for the non-signing inventor. As such, the above-identified application and papers have been reviewed and

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1A 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 Joint inventor Ouederni did not execute the declaration.

As such, 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(a), 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 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 (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Mabrouk Ouederni
6252 North Orange Drive
Charlotte, NC 28277

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OFFICE OF PETITIONS

In re Application of
Mabrouk Ouederni and Paul L. Latten
Application No. 10/721,964
Filed: November 25, 2003
Attorney Docket No. 2000-16 CIP-2
Title: AIR-LAID WEB WITH HOLLOW SYNTHETIC FIBERS

LETTER

Dear Mr. Quederni:

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, an agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you, on behalf of the deceased, pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0011. 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).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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In re Application of	:	
Mabrouk Ouederni and Paul L. Latten	:	
Application No. 10/721,964	:	LETTER
Filed: November 25, 2003	:	
Attorney Docket No. 2000-16 CIP-2	:	
Title: AIR-LAID WEB WITH HOLLOW	:	
SYNTHETIC FIBERS	:	

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed May 17, 2004.

On November 25, 2003, the application was deposited, identifying Mabrouk Quederni and Paul L. Latten as joint inventors. The application was deposited without a fully executed oath or declaration[2]. The instant petition was submitted along with the filing of the application.

The original petition, filed November 25, 2003, was dismissed via the mailing of a decision on March 8, 2004, for failure to establish that diligent efforts were made to locate the non-signing inventor.

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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 Joint inventor Ouederni did not execute the declaration.

On May 3, 2003, a renewed petition was submitted, which was granted via the mailing of a decision on May 11, 2004.

On May 17, 2004, a communication was received from the Petitioner, which set forth that the non-singing inventor had been located. A copy of a letter which was sent to the non-signing inventor was included, along with a request to withdraw the previously mailed decision which granted his petition.

Petitioner's request is **DISMISSED**.

Petitioner makes reference to a declaration which has been executed by the non-signing inventor, but this declaration did not accompany the petition.

Any response may be submitted by mail[3], hand-delivery[4], or facsimile[5].

See Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for information on how to ensure that your submission is delivered to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Feb. 2, 2006

TO SPE OF : ART UNIT 2863 (John Barlowe)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,978,214

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. Your denial or approval decision is needed below.

sp Stacy Powell

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

J Barlowe
SPE

2863
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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HANLEY FLIGHT & ZIMMERMAN
20 N. WACKER DRIVE, SUITE 4220
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Byung Hyun Jung et al :
Application No. 10/721,978 : ON PETITION
Filed: November 25, 2003 :
Attorney Docket No. 20059/PIA30960 :

This is a decision on the petition under 37 CFR 1.173(b), filed April 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed January 27, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of issue fee and publication fee and (2) the petition fee. Accordingly, the issue fee and publication fee payments are accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of
Peter L. Collins et al. :
Application No. 10/722,000 : ON PETITION
Filed: November 25, 2003 :
Attorney Docket No: 2303-18-14 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2008, to revive the above identified application.

The petition is **GRANTED**.

In response to a Final Office Action mailed September 24, 2007, a Request for Continued Examination (RCE) and amendment as the submission required under 37 CFR 1.114 was filed on October 31, 2007. The amendment filed as the submission with the RCE however, was deemed non-compliant and thus did not meet the requirements of 37 CFR 1.121. A Notice of Non-Compliant Amendment was mailed January 17, 2008.

The Notice of Non-Compliant Amendment set a one month period for reply. No response and no extensions of time having been requested, the application became abandoned February 20, 2008. Accordingly, a Notice of Abandon10ment was mailed August 21, 2008.

With the instant petition to revive, petitioner has submitted another amendment as the submission for the RCE filed October 31, 2008 and as required under 37 CFR 1.114.

This matter is being referred to Technology Center 1648 for processing of the RCE filed October 31, 2007 and the amendment filed October 24, 2008 with the instant petition.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/722,000	11/25/2003	Peter L. Collins	2303-18-14

CONFIRMATION NO. 6530

POA ACCEPTANCE LETTER

33883
Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

OC000000033250572

Date Mailed: 11/21/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/pffaison ball/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/722,000	11/25/2003	Peter L. Collins	2303-18-14

CONFIRMATION NO. 6530

POWER OF ATTORNEY NOTICE

GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue NE
Bellevue, WA 98004-5901

OC000000033250431

Date Mailed: 11/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2008.

- 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).

/pffaison ball/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Valeo Climate Control Corp
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills, MI 48326

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OFFICE OF PETITIONS

In re Application of	:	
Regine Haller, et al.	:	
Application No. 10/722,002	:	DECISION ON PETITION
Filed: December 25, 2003	:	TO WITHDRAW
Attorney Docket No. TFR0188	:	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).

Thomas P. Liniak has been withdrawn as attorney or agent; all other attorney remain of record.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

UNITED STATES PATENT AND TRADEMARK OFFICE

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PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET.
28TH FLOOR
COLUMBUS OH 43215

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SEP 23 2008

In re Application of
Waisanen
Application No. 10/722,004
Filed: November 25, 2003
Attorney Docket No. 4005192-166351
For: LASER SURVEY DEVICE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed September 25, 2006, which set an extendable three month period for reply. Applicant submitted an amendment after final on December 12, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the January 10, 2007 Advisory action. Accordingly, this application became abandoned on December 26, 2006. A Notice of Abandonment was mailed on May 7, 2007.

Applicant has submitted a RCE and required $810.00 fee and an amendment as the submission in reply to the September 25, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 25, 2006 final Office action, and the $1,540.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, practitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from

the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, practitioner must notify the Office.

After the mailing of this decision the application will be forwarded to Technology Center AU 2877 for consideration of the RCE and amendment filed on July 29, 2008.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT GORMAN
CIBA VISION, PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH GA 30097

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OFFICE OF PETITIONS

In re Application of Tsao et al. :
Application No. 10/722,008 :
Filing Date: November 25, 2003 :
Attorney Docket No. LP/V-32800/A :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed September 18, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on January 4, 2006.

Petitioner mailed a response in compliance with 37 CFR 1.8(a) on July 5, 2006, along with a request for a three-month extension of time. The reply was timely since the prior day, July 4, 2006, was a federal holiday. The reply was physically received by the Office on July 10, 2006.

Prior to the reply being matched with the file, the examiner mailed a Notice of Abandonment on July 12, 2006. The Notice of Abandonment states a reply was never filed in reply to the non-final Office action.

Petitioner has shown a reply was timely filed. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1751 will be informed of the instant decision and the examiner will consider the merits of the petition filed July 10, 2006, 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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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Timothy P. Mate	: DECISION ON REQUEST FOR
Patent Number	: 7657302	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/722,015	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **752** 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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SEP 17 2004

Paper No. 090304

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

In re Application of:	:	
ANTHONY KURTZ *et al.*	:	
Serial No.: 10/722,029	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 25, 2003	:	FROM RECORD
Attorney Docket No.: **N0843-00108**	:	

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 Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE
1500
1200 SEVENTEENTH ST
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of

William C. Orr :

Application No. 10/722,063

: DECISION ON PETITION

Filed: November 24, 2003

:

Attorney Docket No. ORR IFS CIP 3

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed June 30, 2006, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on July 31, 2006. A Notice of Abandonment was mailed on January 26, 2007.

The election filed July 2, 2007, is noted.

The application is being forwarded to Technology Center 1700, GAU 1714 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

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LENOVO (UNITED STATES), INC.
c/o Sawyer Law Group, LLP
2465 E. Bayshore Road
Suite No. 406
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Seiichi Kawano	:	
Application No. 10/722,084	:	ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. JP920000184US2/4134P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 13, 2007. A Notice of Abandonment was mailed on January 28, 2008.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and specification; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2629 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

DOC Code: CQCIN

PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,020,170 B1

Page 1 of 1

APPLICATION NO. : 10/722,087

ISSUE DATE : Mar. 28, 2006

INVENTOR(S) : Shapiro et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 4
Line 38, after "included", insert –in–
Line 63, change "10" to –110–

Column 8
Line 24, change "422" to –522–
Line 30, change "522" to –524–

Column 9
Line 15, before "are", change "V_{pd}" to –V_{ref}–

Column 11
Line 58, before "different", remove [a]

Enter 6/19/2009

/Hung Vy/

MAILING ADDRESS OF SENDER (Please do not use customer number

R. Burns Israelsen, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

JUL 23 2008

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Paper No.

INTELLECTUAL PROPERTY LAW DEPARTMENT
SCHLUMBERGER-DOLL RESEARCH
36 OLD QUARRY ROAD
RIDGEFIELD, CT 06877

MAY - 5 2005

In re Application of:
Jagdish Shah
Serial No.: 10/722091
Filed: November 27, 2003
Attorney Docket No.: **60.1528**

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 October 27, 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.

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 Paula Bradley at (571) 272-2800 ext 33.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
GROTON CT 06340

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OFFICE OF PETITIONS

In re Application of	:	
Becker, et al.		
Application No. 10/722,104	:	LETTER REGARDING PATENT
Filed: November 25, 2003	:	TERM ADJUSTMENT
Attorney Docket No. PC27788	:	
For: HETEROARYLSULFONYLMETHYL	:	
HYDROXAMIC ACIDS AND AMIDES AND	:	
THEIR USE AS PROTEASE	:	
INHIBITORS	:	

This decision is in response to the "COMMUNICATION," filed June 12, 2008. Applicants disclose that the patent term adjustment (PTA) indicated on the Determination of Patent Term Adjustment may extend the term of this patent by too many days because of the Office's failure to calculate the number of days for applicants delay correctly.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED SIXTY ONE (261) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 7, 2007, the Office mailed a Notice of Allowance with the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 330 days. Applicants disclose that this may be incorrect given the filing of a Request for Continued Examination, filed on September 19, 2007,

and the delayed payment of the issue fee and submission of a Rule 137(b) petition on June 3, 2008.

A review of the application history confirms that an incorrect number of days was determined for applicants delay. 37 CFR 1.704(b) states that the period of adjustment under 35 U.S.C. 1.703 shall be reduced by any periods of time in excess of three months that are taken to reply to an action by the Office making any rejection, objection, argument or other request. In the present case, a final Office action was mailed on April 12, 2007. A response in compliance with §1.113(c), a request for continued examination (RCE) and amendment, was not filed until September 19, 2007, three months and 69 days later. Pursuant to 37 CFR 1.704(b), a period of reduction of 69 days is being entered.

In view thereof, this correct patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred sixty-one (261) days.

With respect to the delay in payment of the issue fee and the abandonment of the application after the mailing of the Notice of Allowance, these calculations are not considered under the initial Determination of Patent Term Adjustment sent with the Notice of Allowance. The revised patent term adjustment indicated in the Issue Notification (and on the patent) is revised in light of applicant and Office delays after the mailing of the Notice of Allowance. If the revised patent term adjustment does not properly consider applicants' delay in paying the issue fee and/or in filing a grantable revival petition, then applicants should file another candor letter.

As this letter was submitted to advise the Office of an error in applicants' delay, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Change of Correspondence Address filed on June 3, 2008 has not been accepted because Attorney Engelmann is not an attorney of record. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CC: PHARMACIA & UPJOHN
7000 PORTAGE ROAD
KZO-300-104
KALAMAZOO, MI 49001

Enclosure: Copy of Revised PAIR Screen

Day : Thursday

PALM INTRANET

Date: 2/5/2009
Time: 16:30:59

PTA Calculations for Application: 10/722104			
Application Filing Date:	11/25/2003	PTO Delay (PTO):	422
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	261
PTO Delay Adjustment:	-69		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		69	
54	12/07/2007	MAIL NOTICE OF ALLOWANCE			
53	11/06/2007	ISSUE REVISION COMPLETED			
52	11/06/2007	DOCUMENT VERIFICATION			
51	12/06/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	12/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
49	12/04/2007	NOTICE OF ALLOWABILITY			
45	09/27/2007	DATE FORWARDED TO EXAMINER			
44	09/19/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	09/27/2007	DATE FORWARDED TO EXAMINER			
42	09/19/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	09/27/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	09/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	07/12/2007	PARALEGAL TD ACCEPTED			
38	07/12/2007	PARALEGAL TD ACCEPTED			
37	07/06/2007	TERMINAL DISCLAIMER FILED			
36	07/12/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
35	07/11/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
34	07/06/2007	IMPROPER REQUEST FOR CONTINUED EXAMINATION			
33	07/06/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
32	04/12/2007	MAIL FINAL REJECTION (PTOL - 326)			

31	04/05/2007	FINAL REJECTION			
30	02/01/2007	DATE FORWARDED TO EXAMINER			
29	01/17/2007	RESPONSE AFTER NON-FINAL ACTION		92	26
28	01/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	07/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	07/17/2006	MAIL NON-FINAL REJECTION			
25	06/12/2006	NON-FINAL REJECTION			
24	04/24/2006	DATE FORWARDED TO EXAMINER			
23	04/17/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
22	03/23/2006	MAIL RESTRICTION REQUIREMENT	422		-1
21	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
20	01/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	01/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	01/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/18/2005	CORRESPONDENCE ADDRESS CHANGE			
16.7	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15.7	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/14/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	04/02/2004	APPLICATION RETURN FROM OIPE			
11	04/02/2004	APPLICATION RETURN TO OIPE			
10	04/02/2004	APPLICATION DISPATCHED FROM OIPE			
9	04/02/2004	APPLICATION IS NOW COMPLETE			
8	03/24/2004	ADDITIONAL APPLICATION FILING FEES			
7	03/24/2004	SMALL ENTITY STATEMENT (37 CFR 1.27)			
6	03/24/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/26/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

4	02/06/2004	CLEARED BY OIPE CSR			
3	02/06/2004	CASE CLASSIFIED BY OIPE			
2	12/24/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/25/2003	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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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
GROTON CT 06340

In re Application of :
Becker, et al. :
Application No. 10/722,104 : ON PETITION
Filed: November 25, 2003 :
Attorney Docket No. PC27788 :
For: HETEROARYLSULFONYLMETHYL HYDROXAMIC ACIDS AND AMIDES AND THEIR USE AS PROTEASE INHIBITORS

MAILED

FEB 10 2009

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of the Rule 137(b) decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

According to the April 22, 2008 Notice of Abandonment, this application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed December 7, 2007, which set a three month period for reply. This application became abandoned on March 8, 2008.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

While petitioners have paid the issue fee and the publication fee, the application is abandoned for a different reason as the one stated in the April 22, 2008 Notice of Abandonment. The person who executed the terminal disclaimers on September 19, 2007 is **not** an empowered attorney of record. It is noted that an associate power of attorney was filed on July 17, 2007. Effective June 25, 2004, power of attorney practice was abolished. 37 CFR 1.32. Therefore, the July 17, 2007 associate power of attorney was not entered and the practitioner listed in the document, John H. Engelmann is not an attorney of record. An attorney of record should execute new terminal disclaimers.

The statement of unintentional delay was signed by a person who may not have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The Change of Correspondence Address filed on June 3, 2008 has not been accepted because Attorney Engelmann is not an attorney of record. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: PHARMACIA & UPJOHN
7000 PORTAGE ROAD
KZO-300-104
KALAMAZOO, MI 49001

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/12/04

Timothy M. Murphy
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/722109 received on 03/19/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

UNITED STATES PATENT AND TRADEMARK OFFICE

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

AUG 25 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Koide, et al.	:	
Application No. 10/722,116	:	
Filed: November 25, 2003	:	
Attorney Docket No. AK-N-432XX	:	

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 December 12, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on March 13, 2008 for failure to reply to the December 12, 2007 non-final Office action. A Notice of Abandonment was mailed on June 19, 2008.

Petitioners request withdrawal of the holding of abandonment based on the assertion that an amendment and terminal disclaimer were timely received in the Office on March 12, 2008. The undersigned finds this argument completely convincing, as these documents are present in the application file. Therefore, the amendment and terminal disclaimer were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the June 19, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter. A terminal disclaimer fee of $130.00 will be charged to deposit account no. 23-0804.

Accordingly, the application file will be forwarded to Technology Center A.U. 1794 for consideration of the amendment and terminal disclaimer filed on March 12, 2008.

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

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.
10/722,121	11/26/2003	Misao Inoke	032142	4841

38834 7590 03/07/2005

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
NGO, HUNG V

ART UNIT	PAPER NUMBER
2831	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No.

Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington DC 20036

In Re Application of:	*	
Misao INOKE, et al.	*	
Serial No.: 10/722,121	*	DECISION ON PETITION
Filing Date: November 26, 2003	*	FILED UNDER 37 CFR 1.84
Attorney's Docket No. 032142	*	

Applicant has filed a petition under 37 CFR 1.84 on July 14, 2004, to permit color photographs to be acceptable as drawing figures. Applicant has stated that the color photographs are necessary in order to describe the invention.

The petition is **granted**.

Dean A. Reichard 11/15/04
Dean A. Reichard
Supervisory Patent Examiner
Group Art Unit 2831

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

SEP 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Burnett et al.	:	
Application No. 10/722,134	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 054824-5001-02	:	

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**.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MYERS & KAPLAN
1899 POWERS FERRY ROAD, S.E.
SUITE 310
ATLANTA, GA 30339

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of	:	
Charles H. Tabb et al	:	
Application No. 10/722,153	:	DECISION ON PETITION
Filed: November 25, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 24800-RA	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(i), filed November 23, 2003, to make the above-identified application special based on the invention materially enhancing the quality of the environment, as set forth in M.P.E.P. § 708.02, Sections V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

While applicants' invention may prevent concrete spills, there is little factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic-life sustaining natural elements." The claimed invention does not appear to have a significant impact on the restoration or maintenance of the basic life-sustaining elements over the currently used devices. The contribution of applicants' invention, while beneficial to the environment, does not rise to the level intended by the Rule.

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 Wan Laymon 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2632 for action in its regular turn.

Denise Pothier
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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MYERS & KAPLAN INTELLECTUAL PROPERTY LAW L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Pat Inglese	:	
Application No. 10/722,153	:	ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. 21480-RA	:	

This is a decision on the petition filed, October 19, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 16, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 17, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on October 19, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 3727 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE
APR 15 2005
TECHNOLOGY CENTER 3600

NORTHWESTERNPATENT.COM
3762 W 11TH AVENUE, #408
EUGENE, OR 97402

In re application of	:	
Robert A. Moss	:	
Application No. 10/722,173	:	**DECISION ON REQUEST**
Filed: November 24, 2003	:	**FOR WITHDRAWAL OF**
For: HYBRID AIRGUN	:	**ATTORNEY**

This is a decision on the request filed on March 29, 2005 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition (A) above. The request has the typed name of Davis S. Alavi . Mr. Alavi's written signature is required.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/dew: 4/11/05

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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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JUN 2 2005

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

In re application of	:	
Robert A. Moss	:	
Application No. 10/722,173	:	**DECISION ON REQUEST**
Filed: November 24, 2003	:	**FOR WITHDRAWAL OF**
For: HYBRID AIRGUN	:	**ATTORNEY**

This is a decision on the request filed on May 3, 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 **DISMISSED as MOOT**.

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 in this application is dismissed as moot because a revocation of power of attorney to David S. Alavi and a new power of attorney to the attorneys of Klarquist Sparkman LLP was submitted to the United States Patent and Trademark Office on May 6, 2005. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed May 13, 2005.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/dew: 5/23/05

cc: David S. Alavi
3762 West 11th Avenue #408
Eugene, OR 97402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 08/07/06

Patent No. : 6991959 B2
Patent Issued : 01/31/06
Docket No. : **ASMJP.133CP1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 05/30/06, please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

LMN

SPE B. Baumeister

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/06

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/722,179 Patent No.: 6991959

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: In Claim #1; Do not Apply as Listed below.
Col 27 line 45 (Twice)
Col 27 line 48
Col 27 line 52

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
SPE

2891
Art Unit

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FROM DIRECTORS OFFICE

OCT 19 2004

TECHNOLOGY CENTER 3600

Lorri W. Cooper
Jones Day
North Point, 901 Lakeside Avenue
Cleveland, OH 44114

In re application of
John Jeffrey Waldman et al.
Application No. 10/722,188
Filed: November 25, 2003
For: LIQUID CONTROL STRUCTURE

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed November 25, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The declaration of Lorri W. Cooper states that "the flow control structure of the present application may be used by farmers to adjust water elevations in fields. By maintaining the water level in fields, nitrates are deterred from flowing into the ground water and are maintained in the field, where they serve a beneficial purpose..." The declaration further indicates that "(t)he invention is useful in deterring the flow of nitrates into ground water, thereby promoting ground water that is free from high levels of nitrates. At the same time, the invention helps to maintain fertile fields for agricultural purposes."

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 10/12/04

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ROBERT N.CROUSE
MYERS BIGEL SIBLEY & SAJOVEC
POST OFFICE BOX 37428
RALEIGH NC 27627

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APR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Byeong-Chan Lee et al	:	
Application No. 10/722,193	:	DECISION GRANTING FILING
Filed: November 25, 2003	:	DATE OF NOVEMBER 25, 2003
Attorney Docket No. 5649-1225	:	

This is a decision on the petition filed November 8, 2004, requesting that the above-identified application be accorded a filing date of November 25, 2003, rather than the filing date of November 26, 2003.

The petition is **granted**.

The application was deposited on November 25, 2003. However, on September 9, 2004, the Office of Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," stating that the application was deposited without drawings.

In response, on November 8, 2004, the instant petition and a copy of (20) twenty formal drawing sheets as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of (20) twenty sheets of drawings on November 25, 2003. A review of the application file do not show receipt of any sheets of drawings.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence supports the fact that the drawings (20 sheets) were in fact present on filing, the Notice mailed September 9, 2004, is vacated.

Since the drawings cannot be located in the Office, the copy of the drawings supplied on November 8, 2004 will be used for processing and examination purposes.

The petition fee of $130.00 submitted with the instant petition is being credited to deposit account no. 50-0220 as authorized.

This matter is being referred to the Office of Initial Patent Examination Division for processing with a filing date of **November 25, 2003**, and for an indication that the drawings (20 sheets) were included on filing and for mailing of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (571) 272-3208.

Karen Creasy

Karen Creasy
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

02/17/04

Myers Bigel Sibley & Sajovec
PO Box 37428
Raleigh, NC 27627

Dear Applicant:

The Box PGPub replacement drawings for application number 10/722194 received on 12/22/03 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, at 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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OIPE JC102
MAR 2 6 2004
PATENT & TRADEMARK OFFICE

Attorney Docket No. 9314-53

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Thomas L. Deitrich
Serial No.: 10/722,198 — Group Art No.: 2681
Filed: November 25, 2003 — Confirmation No.: 6742
For: METHODS, NETWORKS, AND COMPUTER PROGRAM PRODUCTS FOR SELECTIVELY ROUTING COMMUNICATIONS BASED ON ROUTING RULES

March 24, 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 25, 2003 rather than November 26, 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 25, 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 5:54 p.m. on November 25, 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 26, 2003 instead of the Express Mail date of November 25, 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 25, 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,

David K. Purks
Attorney For Applicant
Registration No. 40,133

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 24, 2004.

Lindsay L. Huey
Date of Signature: March 24, 2004

OIPE JC102
MAR 2 6 2004
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY DOCKET NO.: 9314-53
DATE: **November 25, 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.:_____; filed _____, the disclosure of which is incorporated herein by reference in its entirety.
☐ and claims the benefit of Provisional Application No. _____; filed _____.

Inventor(s) or Application Identifier:

Thomas L. Deitrich – ~~Chael~~ Chapel Hill, North Carolina

Entitled: **METHODS, NETWORKS, AND COMPUTER PROGRAM PRODUCTS FOR SELECTIVELY ROUTING COMMUNICATIONS BASED ON ROUTING RULES**

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. ☒ **17** pages of Specification (including **29** claims)
3. ☒ **4** 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, PTO-1449, and _____ references cited
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	**29** - 20 =	**9**	x 09 = $	x 18 = $162.00
INDEP CLAIMS	**3** - 3 =	**0**	x 43 = $	x 86 = $ - 0 -
☐ MULTIPLE Dependent Claims Presented			+ 145 = $	+ 290 = $
If the difference in Col. 1 is less than zero, Enter "0" in Col. 2			Total $	Total $932.00

☒ A check in the amount of **$932.00** to cover the filing fee is enclosed.

☐ A check in the amount of $ 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,

David K. Purks
Registration No. 40,133

CERTIFICATE OF EXPRESS MAILING

Express Mail Label No.: EV 318417767
Date of Deposit: November 25, 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.

Audra Wooten

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MAR 2 6 2004
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- ACCEPTANCE, November 25, 2003, 5:54 pm, RALEIGH, NC 27622

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FROM: (PLEASE PRINT) PHONE (919) 854 1400

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627-7428

9314-53 DKP/abw

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MS Patent Application
Commissioner for Patents
P.O. Box 1450
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DKPlaba

12-07-03 A11:3

Date: 11-25-03
Doc. No. 9314-53
Serial No. IBA
Inventor: Deitrich

Sir: Kindly acknowledge receipt of the accompanying items listed below by placing your receiving stamp hereon and return mailing:

✓ Application Transmittal and:
- ✓ Specification pages 17
- ✓ No. of Claims 29
- ✓ Declaration & POA
- ___ Assignment and Fee
- ___ Small Entity Statement
- ✓ Formal Drawings/ 4 sheets
- ___ Associate Power of Attorney
- ✓ Exp. Mail ___ 1st Class Mail

___ Other: _____

- ✓ Check $ 932.00
- ___ IDS & PTO-1449 & ___ refs.
- ___ Amendment & Amend. Transmittal
- ___ Preliminary Amendment
- ___ Issue Fee
- ___ Brief
- ___ Appeal
- ___ Submittal of Priority Doc.

17548 U.S. PTO
~~10/722198~~

Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
Attorneys for Applicant

112603

DKP

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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
10/722,198	~~11/26/2003~~ 11/25/2003	2681	932	9314-53	4	29	3

CONFIRMATION NO. 6742

FILING RECEIPT

OC000000011981821

David K. Purks
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

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Date Mailed: 02/26/2004

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)

Thomas L. Deitrich, Chapel Hill, NC;

03-01-04 A09:57 IN

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/26/2004

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods, networks, and computer program products for selectively routing communications based on routing rules

Preliminary Class

455

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Michael G. Crilly, Esq.
104 South York Road
Hatboro, PA 19040

In re application of
Wieslaw Bober, et al.
Application No. 10/722,227
Filed: November 25, 2003
For: COMPOUND LIFT DEVICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on July 19, 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).

In satisfaction of item (B) above, the petitioner states, "If the Patent and Trademark Office determines that all of the claims are not obviously directed to a single invention, i.e., the apparatus of claim 1 and the method of claim 4 are deemed to be two separate inventions, then Applicant will make an election without traverse of claims 1 to 3 directed to an apparatus as a prerequisite to the grant of special status."

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.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 11/15/04

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Eugene F. Giszczynski, et al. :
Application No. 10/722,230 :
Filed: November 25, 2003 :
Attorney Docket No. 2376.2142-001 :

ON PETITION

This is a decision in response to the petition, filed February 7, 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 June 8, 2007. A Notice of Abandonment was mailed on January 11, 2008. In response, on February 7, 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[1].

This application is being referred to Technology Center AU 2619 for appropriate action by the Examiner in the normal course of business on the reply received February 7, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record at the time of abandonment, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JACKSON & CO., LLP
6114 LA SALLE AVENUE
SUITE 507
OAKLAND CA 94611-2802

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OFFICE OF PETITIONS

In re Application of	:	
Say et al.	:	
Application No. 10/722,253	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. TS-02-20	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 9, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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OFFICE OF PETITIONS

Applicant: Tao et al.
Appl. No.: 10/722,257
Filing Date: November 25, 2003
Title: PROCESS FOR THE PREPARATION OF CYANINE DYES WITH POLYSULFONATE ANIONS
Attorney Docket No.: 90007JLT
Pub. No.: US 2005/0113546 A1
Pub. Date: May 26, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 14, 2005, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error, as the publication does not include the claims filed with the application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on October 14, 2005, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be

[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).

accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

The amendment received by the Office on February 1, 2005, which was improperly listed the above-identified application number and was scanned into this application and published has relabeled as a miscellaneous incoming letter.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GENERAL MOTORS CORPORATION
300 RENAISSANCE CENTER
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

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DEC 15 2006
OFFICE OF PETITIONS

In re Application of	:
Sethu K. Madhavan et al	:
Application No. 10/722,260	: DECISION GRANTING PETITION
Filed: November 25, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. GP-304329 2760/154	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2005. A Notice of Abandonment was mailed on August 24, 2006, after the filing of the present petition to revive.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 23, 2005 is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,020 extension of time submitted with the petition on June 21, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the reply received June 21, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

Mail Date: 04/20/2010

Applicant	: Christiaan Steenbergen	: DECISION ON REQUEST FOR
Patent Number	: 7596069	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/722,268	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1462** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450,
Alexandria, VA 22313-1450
www.uspto.gov

FEB 8 2005

Paper No. 083004

McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410

In re Application of:
Kaiser et al.
Serial No.: 10/722,286
Filed: November 26, 2003
Attorney Docket No.: 2152.007

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed November 25, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes an affidavit regarding the age of the inventor, Dolores Kaiser, 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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Senniger Powers
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

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MAY 1 5 2008

OFFICE OF PETITIONS

In re Application of
Lewis et al.
Application No. 10/722,288
Patent No. 7,187,083
Filed: November 25, 2003
Attorney Docket CEDA 7000.5

: DECISION GRANTING PETITION

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)" timely[1] filed on April 12, 2007, requesting that the Patent Term Adjustment be adjusted from 256 days to a determination of 296 days.

Applicants' petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of **296** days rather than the 256 day amount printed on the front of the patent. In addition, the Office will adjust the PTA calculation displayed in PAIR to reflect this decision.

Applicants argue that the Office erred in asserting an applicant delay of forty (40) days for the submission of the letter January 26, 2007 requesting the previously paid issue fee be reapplied to the new notice of allowance. Applicants assert that the submission of such letter should not be considered a failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(c)(10).

Applicants' arguments are persuasive. The Office will not assess a reduction in patent term adjustment under the circumstances. It is noted that there is no need for applicants to continue such practice because the return of the PTOL-85 (Part B) is an express request by applicants to have the previously paid issue fee apply to the new notice of allowance. Accordingly, the forty (40) day reduction for the submission of such letter will be removed. Applicants should cease and desist from sending this letter along with the return of PTOL-85(Part B) form..

After review of this decision, this patented file will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

---

[1]Patent issue date March 6, 2007.

Application No.10/000,859

The Office has assessed the $200.00 (petition) to deposit account 50-0591. No additional fees are required in determining this decision

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

Day : Thursday
Date: 5/15/2008

PALM INTRANET

Time: 10:33:51

PTA Calculations for Application: 10/722288			
Application Filing Date:	11/25/2003	PTO Delay (PTO):	322
Issue Date of Patent:	03/06/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	66
Post-Issue Petitions:	0	Total PTA (days):	296
PTO Delay Adjustment:	40		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	05/15/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	40		
58.5	02/14/2007	PTA 36 MONTHS			
58	03/06/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
57	01/26/2007	ISSUE FEE PAYMENT RECEIVED			
55	02/01/2007	EXPORT TO FINAL DATA CAPTURE			
54	01/31/2007	DISPATCH TO FDC			
53	01/26/2007	MISCELLANEOUS INCOMING LETTER		40	
52	01/29/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
51	01/26/2007	ISSUE FEE PAYMENT VERIFIED			
50	12/18/2006	EXPORT TO INITIAL DATA CAPTURE			
49	12/14/2006	MAIL NOTICE OF ALLOWANCE			
48	12/08/2006	ISSUE REVISION COMPLETED			
47	12/08/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	12/07/2006	NOTICE OF ALLOWABILITY			
45	11/29/2006	DATE FORWARDED TO EXAMINER			
44	11/20/2006	RESPONSE AFTER NON-FINAL ACTION			
43	08/25/2006	MAIL NON-FINAL REJECTION			
42	08/21/2006	NON-FINAL REJECTION			
41	06/16/2006	FINISHED INITIAL DATA CAPTURE			
40	06/12/2006	DATE FORWARDED TO EXAMINER			
39	06/12/2006	WITHDRAWAL OF NOTICE OF ALLOWANCE			
38	03/31/2006	EXPORT TO INITIAL DATA CAPTURE			
37	03/28/2006	MAIL NOTICE OF ALLOWANCE			
36	03/24/2006	ISSUE REVISION COMPLETED			

35	03/24/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	03/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
33	03/23/2006	NOTICE OF ALLOWABILITY			
32	03/22/2006	DATE FORWARDED TO EXAMINER			
31	03/13/2006	RESPONSE AFTER NON-FINAL ACTION			
30	12/13/2005	MAIL NON-FINAL REJECTION	322		-1
29	12/12/2005	NON-FINAL REJECTION			
28	10/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	07/01/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	06/21/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	02/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	11/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	10/18/2005	REFERENCE CAPTURE ON IDS			
22	10/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/18/2005	PRELIMINARY AMENDMENT			
20	07/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	07/27/2004	REFERENCE CAPTURE ON IDS			
18	07/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	06/21/2004	REFERENCE CAPTURE ON IDS			
14	06/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	02/26/2004	REFERENCE CAPTURE ON IDS			
12	02/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	07/08/2004	APPLICATION RETURN FROM OIPE			
10	07/08/2004	APPLICATION RETURN TO OIPE			
9	07/08/2004	APPLICATION DISPATCHED FROM OIPE			
8	07/08/2004	APPLICATION IS NOW COMPLETE			
7	06/21/2004	ADDITIONAL APPLICATION FILING FEES		26	5
		A STATEMENT BY ONE OR MORE INVENTORS			

6	06/21/2004	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/26/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	02/06/2004	CLEARED BY OIPE CSR			
3	02/06/2004	CASE CLASSIFIED BY OIPE			
2	12/24/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/25/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,187,083 B2
DATED	:	March 7, 2007
INVENTOR(S)	:	Lewis 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 (256) days

Delete the phrase "by 256 days" and insert – by 296 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,187,083 B2
DATED	:	March 6, 2007
INVENTOR(S)	:	Lewis 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 (256) days

Delete the phrase "by 256 days" and insert – by 296 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-18-08

Paper No.: ____

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 7064825 (10/722298

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.

Should inventor be added? Please respond ASAP

E. James

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext. ~~[illegible]~~

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

SPE

2877
Art Unit

UNITED STATES 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. 20080326

John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis MO 63102

JUN - 6 2008

In re Application of:
Viertl ET AL
Serial No.: 10/722,298
Filed: August 7, 2000
Patent No. 7,064,825
Issued; Jun 20, 2006
Attorney Docket No.: 130576

: PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.324

This is a decision on the petition filed March 17, 2008 to correct inventorship under 37 CFR 1.324.

The petition is GRANTED.

The inventorship is now:

John Ruediger Mader Viertl
Tymm Bradner Schumaker
Pamela K. Benicewicz

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

26 March 08

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 20, 2006

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/722313 patent No.: 7,101,487

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

J.A. LORENGO
SUPERVISORY PATENT EXAMINER

SPE

1755
Art Unit

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 10/722315 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of	:	
Robert Gentile, et. al.	:	
Application No. 10/722,344	:	DECISION ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 500219.02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of August 10, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

As authorized, $810 for the filing of the Request for Continued Examination (RCE) has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2123 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON DC 20005-3500

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OFFICE OF PETITIONS

In re Application of
Christian Boettcher
Application No. 10/722,362
Filed: November 26, 2003
Attorney Docket No.:
15540-017001 / 18.00246;
Title: PRESSURE SENSITIVE
DEFORMABLE MIRROR

DECISION ON PETITION

This is a decision on the petition filed July 20, 2004, requesting that Figures 3-5 be accorded a filing date of November 26, 2003 as part of the original disclosure.

The application was deposited on November 26, 2003. However, on June 28, 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 3-5. The notice further indicated that the basic filing fee, an oath or declaration, and the accompanying surcharge would be required.

In response, on July 20, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Figures 3-5, along with a copy of applicants' postcard receipt acknowledging receipt of "drawings (formal, 2 sheets)" in the United States Patent and Trademark Office (Office) on November 26, 2003. Petitioner has also included a declaration, the accompanying surcharge, and the filing fee. Applicants request that the entire application, including Figures 3-5, be accorded a filing date of November 26, 2003.

It is noted that one sheet of drawings containing Figures 1 and 2 has been located in the electronic file.

Upon review of the record, Figures 3-5 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 26, 2003 included Figures 3-5, and the sheet containing these figures was subsequently misplaced in the Office.

Therefore, the application, including Figures 3-5, was complete on filing and entitled to a filing date of November 26, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The portion of the notice mailed June 28, 2004 which referred to the missing figures was sent in error, and that portion 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 26, 2003, using the original application papers filed on that date, as well as Figures 3-5 submitted on July 20, 2004. Office records will then be updated to show 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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Fujitsu Patent Center
C/O CPA Global
P.O. Box 52050
Minneapolis MN 55402

In re Application of
Atsushi Hirano, et al.
Application No. 10/722,369
Filed: November 26, 2003
Attorney Docket No. 1614.1373

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 8, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

This application is being referred to Technology Center AU3624 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.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
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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VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of :
David BEBBINGTON et al :
Application No. 10/722,374 :
Filed: 11/25/2003 :
Attorney Docket No. VPl/00-130-08 CON US :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 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 Office action mailed, May 2, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 3, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

As to item (3), 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." Petitioner's varied statement of "the entire delay in filing the required Notice of Allowance and Fee(s) Due response, from the July 26, 2007 due date until the filing of this grantable petition under 37 C.F.R. §1.137(b), was unintentional" is insufficient to cover the **entire** delay. Noting that there was no Notice of Allowance and Fee(s) Due mailed for

this application, the due date for the required reply was not July 26, 2007 but August 2, 2006. As such, the statement made by petitioner fails to cover the entire delay, as required.

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.

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 Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

David A. Bucci
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
www.uspto.gov

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of
Masatsugu Iribe et al
Application No. 10/722,413
Filed: November 28, 2003
Attorney Docket No. 245938US6

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 25, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 5, 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 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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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Alexandria, VA 22313-1450
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RALPH A. DOWELL OF DOWELL & DOWELL
2111 EISENHOWER AVE, SUITE 406
ALEXANDRIA, VA 22314

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Gary Lorne Maclsaac	:	
Application No. 10/722,423	:	DECISION ON PETITION
Filed: November 28, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 14534	:	37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed January 5, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy

> the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by providing a method of detecting bandwidth anomalies in a communication system. The disclosure fails to indicate countering terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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 Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2664 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Patent No. 6,930,640	:	
Issue Date: August 16, 2005	:	
Application No. 10/722,539	:	NOTICE
Filed: November 28, 2003	:	
Attorney Docket No. BHT-3167-168	:	

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) 272-3208.

/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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APR 25 2005

OFFICE OF PETITIONS

DENNISON ASSOCIATES
PATENT AND TRADE MARK AGENTS
SUITE 301
133 RICHMOND STREET WEST
TORONTO ON M5H 2L7 CA CANADA

In re Application of David Tavares et al. Application No. 10/722,560 Filed: November 28, 2003 Attorney Docket No.: JJ-12 009-1US Title: EVENT MANAGEMENT SYSTEM	: : : : : :	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 3, 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 27, 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 28, 2004. A Notice of Abandonment was mailed December 2, 2004.

With the petition, Petitioner has submitted the petition fee, the basic filing fee, a declaration and the surcharge associated with the late filing of the same, 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

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSON BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Thomas HAPP, et al
Application No. 10/722,576
Filed: November 28, 2003
Attorney Docket No. 543822002600

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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 Deborah S. Gladstein on behalf of all attorneys of record who associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There 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

cc: THOMAS HAPP
KUHBACHSTR. 10
MUNCHEN, GERMANY

cc: SLATER & MATSIL L.L.P.
17950 PRESTON ROAD. SUITE 1000
DALLAS, TX 75252

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/722,576	11/28/2003	Thomas Happ	543822002600

CONFIRMATION NO. 4966

OC000000024317421

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Diane Goodwyn

Office of Initial Patent Examination (571) 272-6000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

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OFFICE OF PETITIONS

In re Application of	:	
Voges et al.	:	
Application No. 10/722579	:	DECISION
Filing or 371(c) Date: 11/26/2003	:	ON PETITION
Patent No.: 7166035	:	
Issue Date: 01/23/2007	:	
Attorney Docket No.: 67175523.001105	:	

This is a decision on the correspondence entitled "Request to Correct the Assignee Under 37 CFR 3.81(b) and Request for Certificate of Correction of Patent Under 37 CFR 1.323," filed February 1, 2007, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in treating this petition is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that Max Out Golf, LLC, is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Derek L. Woods
Attorney
Office of Petitions

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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DIRECTORS OFFICE

AUG 2 3 2006

TECHNOLOGY CENTER 2800

DARBY & DARBY P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of:	:	
Stephen Russak et al.	:	DECISION *SUA SPONTE*
Serial No.: 10/722,590	:	WITHDRAWING THE HOLDING
Filed: November 25, 2003	:	OF ABANDONMENT
Attorney Docket No.: 00467/100M163-US1	:	

This is a decision, sua sponte, withdrawing the holding of abandonment of the above-identified application.

A Notice of Abandonment was mailed on August 9, 2006. The application was held abandoned for failure to timely file a proper reply to the Office letter mailed on January 17, 2006. There was no Office letter mailed on January 17, 2006.

A review of the application record reveals the following pertinent events. A final Office action was mailed on July 8, 2005. On January 9, 2006, applicant filed a Notice of Appeal with a petition for an extension of time which extended the period for response to the final Office action to January 8, 2006. The Notice of Appeal was timely under the provisions of 37 C.F.R. § 1.7(a) since January 8, 2006 fell on a Sunday. On August 8, 2006, applicant filed a proper Request for Continued Examination (RCE) with a petition for an extension of time which extended the period for filing an Appeal Brief or RCE to August 8, 2006.

Accordingly, the Notice of Abandonment mailed on August 9, 2006 is hereby VACATED and the holding of abandonment is withdrawn.

The Technical Support Staff of Technology Center 2800 will process the RCE and the examiner will prepare an Office action with consideration of the amendment filed with the RCE.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MEREK BLACKMON & VOORHEES LLC
673 S. WASHINGTON STREET
ALEXANDRIA, VA 22314

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SEP 1 2 2005

OFFICE OF PETITIONS

In re Application of	:
Robert A. Grubba et al	:
Application No. 10/722,592	: DECISION ON PETITION
Filed: November 28, 2003	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 36932.198949	:

This is a decision on the petition, filed September 9, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application filed under 37 CFR 1.53(b) on September 6, 2005. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This abandoned matter is being referred to Files Repository.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Compaan et al.	:	DECISION ON
Application No.: 10/722,643	:	
Filing Date: November 26, 2003	:	PETITION UNDER
Docket No.: 1-24016	:	
For: Method Of Making Diode Structures	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on July 14, 2006.

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 April 6, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 6, 2006. A Notice of Abandonment was mailed on September 6, 2006.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner has submitted the reply in the form of the Issue Fee and Publication Fee (if required), paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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THOMTE MAZOUR & NIEBERGALL, L.L.C.
2120 S. 72ND STREET, SUITE 1111
OMAHA, NE 68124

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas L. Egan Jr.	:	
Application No. 10/722,653	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed April 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 9, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 02, 2006

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/722664 Patent No.: 7,052,418 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: MSC – 1/4/07

SPE

3711

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

EUGENE KIM
SUPERVISORY PATENT EXAMINER

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,052,418

DATED : May 30, 2006

INVENTOR(S) : Nye et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1
Line 18, before "well known" add --a--

Column 2
Line 43, change "structures be" to --structures to be--

Column 5
Line 48, change "such blow-molded" to --such as blow-molded--

Column 7
Line 27, change "is basketball" to --is a basketball--

Column 8
Line 34, delete "8"--

Column 9
Line 1, delete "8"--

Column 10
Line 36, delete "8"--
Line 65, delete "8"--

Column 11
Line 1, delete "8" --
Line 26, delete "8"--
Line 55, change "located" to --locating--

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 7,052,418

Richard C. Gilmore
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

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P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **7,052,418**

DATED : **May 30, 2006**

INVENTOR(S) : **Nye et al.**

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 12

Line 20, delete "8"--

Line 39, change "extends" to --extend--

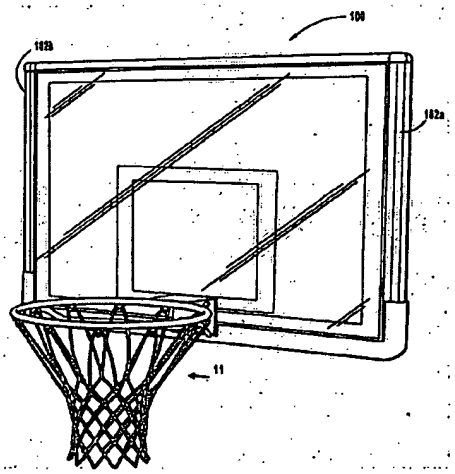
Line 66, delete "8"--

Column 13

Line 1, delete "8"--

Drawings

Sheet 4, replace Figure 9 with the figure depicted herein below, wherein the rim or hoop has been labeled with --11--



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PATENT NO. 7,052,418

Richard C. Gilmore
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Salt Lake City, Utah 84111

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **7,052,418**

DATED : **May 30, 2006**

INVENTOR(S) : **Nye et al.**

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1
Line 18, before "well known" add --a--

Column 2
Line 43, change "structures be" to --structures to be--

Column 5
Line 48, change "such blow-molded" to --such as blow-molded--

Column 7
Line 27, change "is basketball" to --is a basketball--

Column 8
Line 34, delete "8"--

Column 9
Line 1, delete "8"--

Column 10
Line 36, delete "8"--
Line 65, delete "8"--

Column 11
Line 1, delete "8" --
Line 26, delete "8"--
Line 55, change "located" to --locating--

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 7,052,418

Richard C. Gilmore
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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NOV - 9 2006

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **7,052,418**

DATED : **May 30, 2006**

INVENTOR(S) : **Nye et al.**

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 12

Line 20, delete "8"--

Line 39, change "extends" to --extend--

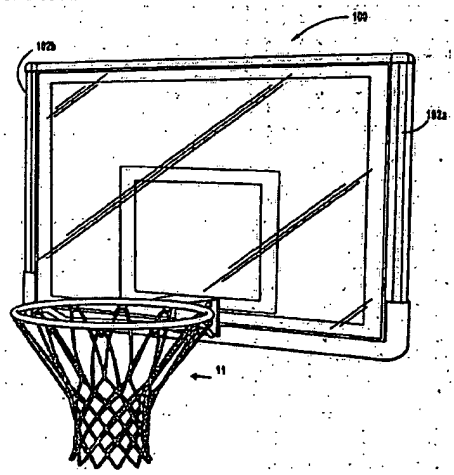
Line 66, delete "8"--

Column 13

Line 1, delete "8"--

Drawings

Sheet 4, replace Figure 9 with the figure depicted herein below, wherein the rim or hoop has been labeled with --11--



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PATENT NO. 7,052,418

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WILLIAM W. HAEFLIGER
SUITE 512
201 SO. LAKE AVE.
PASADENA, CA 91101

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OFFICE OF PETITIONS

In re Application of
John M. Popovich
Application No. 10/722,672
Filed: November 28, 2003
Attorney Docket No. 12,567

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 14, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is

entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2822 for appropriate action on the amendment submitted March 14, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/405,826.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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William W. Haefliger
Suite 512
201 So. Lake Ave.
Pasadena, CA 91101

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JUL 25 2006

OFFICE OF PETITIONS

In re Application of

John M. Popovich

Application No. 10/722,672

Filed: November 28, 2003

Attorney Docket No. 12,567

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 1, 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 September 14, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on December 15, 2005. A Notice of Abandonment was mailed on April 20, 2006.

The amendment filed May 1, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2800, GAU 2822 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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OWEN L. LAMB
P.O. BOX 386
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In re Application of	:	
Angelo SALVUCCI, et al	:	
Application No. 10/722,677	:	DECISION ON PETITION
Filed: November 24, 2003	:	TO WITHDRAW
Attorney Docket No. D-1603	:	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 12, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Owen L. Lamb on behalf of all the attorneys of record.

All the attorneys of record 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ANGELO SALVUCCI
1679 FRANCESCHI ROAD
SANTA BARBARA CA 93103

cc: DON E. REICH
9972 CREEK ROAD
OAK VIEW, CA 93022

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WWW.USPTO.GOV

Paper No. None

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

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OFFICE OF PETITIONS

In re Application of :
Sanjai Kohli et al. :
Application No. 10/722,694 :
Filed: November 24, 2003 :
Attorney Docket Number: :
SIRF.P021.US.D1.C2 :
Title: PSEUDO-NOISE CORRELATOR :
FOR GPS SPREAD-SPECTRUM :
RECEIVER :

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on January 31, 2006.

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 14, 2005, which set a shortened statutory period for reply of three (3) months. An after-final response was received on November 16, 2005, which contained a one-month extension of time and a certificate of

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

mailing dated November 14, 2005. An advisory action was mailed on December 28, 2005. No further extensions of time under the provisions of 37 CFR §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on November 15, 2005.

With the present petition, Petitioner has submitted a notice of appeal along with the associated fee, the petition fee, the proper statement of unintentional delay, and a pre-appeal brief request for review. A terminal disclaimer is not required.

The petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the notice of appeal and the pre-appeal brief request for review, which were concurrently submitted with this petition, can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS, CO 80525

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OFFICE OF PETITIONS

In re Application of	:	
Jonah Harley, et al.	:	
Application No. 10/722,698	:	DECISION ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 10030475-1.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 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, August 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received May 7, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

Cc: ROBERT W. NELSON
PO BOX 1920
DENVER, CO 80201

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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 Briton, et al. Application No. 10/722,733 Filed: November 25, 2003 Attorney Docket No. 11767-055-999	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.182, filed June 30, 2008 , requesting entry of an Application Data Sheet (ADS) to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the ADS filed with the petition.

The petition is **DISMISSED**.

The above-noted abandoned application failed to make a specific reference to the prior-filed application; namely, that it is a continuation-in-part of 09/623,548, filed September 5, 2000, prior to abandonment. Petitioner now requests that the instant abandoned application be amended by inserting a reference to the earlier-filed application. The petition is accompanied by an ADS to include a reference to the prior-filed application.

35 U.S.C. § 120 permits entry of a subsequent amendment or ADS to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC DC 1976).

However, as the instant application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) is required.

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.

Further correspondence with respect to this matter should be addressed as follows:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Briton, et al.	:	
Application No. 10/722,733	:	DECISION ON PETITION
Filed: November 25, 2003	:	UNDER 37 CFR 1.182
Attorney Docket No. 11767-055-999	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON PETITION UNDER 37 C.F.R. §1.182", filed October 31, 2008 , requesting entry of an Application Data Sheet (ADS) to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the ADS.

The petition is **DISMISSED**.

The above-noted **abandoned** application failed to make a specific reference to the prior-filed application; namely, that it is a continuation-in-part of 09/623,548, filed September 5, 2000, prior to abandonment.[1] In a petition filed June 30, 2008, petitioner requested that the instant abandoned application be amended by inserting a reference to the earlier-filed application. However, the petition was dismissed in a decision mailed on September 2, 2008. The decision acknowledged that 35 U.S.C. § 120 permits entry of a subsequent amendment or ADS to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC DC 1976). However, the decision noted that as the instant application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) was required.

On renewed petition, petitioner cites the Office's attention to MPEP 201.11(v), which states that a petition under 37 CFR 1.78(a)(3) is not required where an applicant seeks to change the relationship of the applications. Applicant argues that he merely seeks to amend the instant

[1] The application became abandoned for failure to file a reply to the non-final Office action mailed December 29, 2004.

application to indicate that it is a continuation-in-part, rather than a continuation, of application No. 09/623,548.

Applicant's argument has been considered, but is not persuasive. It is true that if the instant application was in pendency status, then a petition under 37 CFR 1.78 would not be required to change the relationship between the applications. However, the priority claim made on the filing of the present application on November 25, 2003 was incorrect. As set forth in MPEP 201.11(III)(A), the reference must state the proper relationship. On filing, both the specification and the ADS stated that the present application "claims priority to US Application No. 09/623,548". Thus, the change that petitioner is attempting to make is not merely a correction of the relationship. While the USPTO noted the 09/623,548 application on the filing receipt, the incorrect relationship was inserted. While a petition under 37 CFR 1.78 is unnecessary where the USPTO picks up the priority claim, if the USPTO picks up the priority claim and as a result of ambiguity in the claim the incorrect relationship is inserted on the filing receipt, a petition under 37 CFR 1.78 is necessary.

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Briton, et al.	:	
Application No. 10/722,733	:	DECISION ON PETITION
Filed: November 25, 2003	:	UNDER 37 CFR 1.182
Attorney Docket No. 11767-055-999	:	

This is a decision on the "SECOND REQUEST FOR RECONSIDERATION OF DECISION ON PETITION UNDER 37 C.F.R. §1.182", filed February 5, 2009, requesting entry of an Application Data Sheet (ADS) to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the ADS.

The petition is **DISMISSED**.

The above-noted **abandoned** application failed to make a specific reference to the prior-filed application; namely, that it is a continuation-in-part of 09/623,548, filed September 5, 2000, prior to abandonment.[1] In a petition filed June 30, 2008, petitioner requested that the instant abandoned application be amended by inserting a reference to the earlier-filed application. However, the petition was dismissed in a decision mailed on September 2, 2008. The decision acknowledged that 35 U.S.C. § 120 permits entry of a subsequent amendment or ADS to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC DC 1976). However, the decision noted that as the instant application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) was required.

Applicants filed a request for reconsideration on October 31, 2008. Petitioner argued that a petition under 37 CFR 1.78(a)(3) is not required where applicants seek to change the relationship of the applications, citing MPEP 201.11(v). Petitioner argued that a mere change in the

[1] The application became abandoned for failure to file a reply to the non-final Office action mailed December 29, 2004.

relationship is what was sought – to amend the application to indicate that it is a continuation-in-part, rather than a continuation, of application No. 09/623,548. However, that petition was dismissed in a decision mailed on December 19, 2008. The decision acknowledged that it was true that if the instant application was in pendency status, then a petition under 37 CFR 1.78 would not be required to change the relationship between the applications. As set forth in MPEP 201.11(III)(A), the reference must state the proper relationship. On filing, both the specification and the ADS stated that the present application "claims priority to US Application No. 09/623,548". Thus, the change that petitioner is attempting to make is not merely a correction of the relationship. While the USPTO noted the 09/623,548 application on the filing receipt, the incorrect relationship was inserted. While a petition under 37 CFR 1.78 is unnecessary where the USPTO picks up the priority claim, if the USPTO picks up the priority claim and as a result of ambiguity in the claim the incorrect relationship is inserted on the filing receipt, a petition under 37 CFR 1.78 is necessary.

With the instant request for reconsideration, applicant argues that he did file a paper with the application that included a relationship between the applications. Petitioner points out that the "REQUEST TO TRANSFER SEQUENCE LISTING FROM RELATED APPLICATIONS", filed on November 25, 2003, included the following language: "Applicants assert that the present application is a continuation of U.S. Application Serial Nos. 10/288,340 and 09/623,548...." Petitioner cites MPEP 201.11(V), which states in part:

> If an applicant includes a claim to the benefit of a prior application elsewhere in the application but not in the manner specified in 37 CFR 1.78(a)(2)(i) and (a)(2)(iii) or 37 CFR 1.78(a)(5)(i) and (a)(5)(iii) (e.g., if the benefit claim is included in an unexecuted oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a)(2)(ii) or (a)(5)(ii), the Office will not require a petition and the surcharge under 37 CFR 1.17(t) to correct the benefit claim if the information concerning the benefit claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt.

Petitioner's argument with respect to this matter has been considered and found to be persuasive. If the instant application were in pendency status, then petitioner is correct – no petition under 37 CFR 1.78 would be required to change the relationship between the applications, since petitioner did include a relationship elsewhere in the application on filing. However, as stated elsewhere in MPEP 201.11(V), "[i]f the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the benefit claim of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c) must be made during the **pendency** of the application."

Petitioner repeats his prior argument that Sampson v. Commissioner of Patents and Trademarks, 195 U.S.P.Q 136 (D.D.C. 1976) permits entry of an Amendment or ADS in an abandoned application. However, that is only true with respect to applications filed prior to November 29, 2000. In applications filed on or after November 29, 2000, 37 CFR 1.78 is explicit that a claim for priority must be made during the pendency of the later filed application. Petitioner is directed to the Office's pubication found at "Eighteenth-Month Publication Questions and Answers" (http://www.uspto.gov/web/offices/dcom/olia/aipa/18monthfaq .htm#cx4):

> CX14. Can applicant add a benefit claim of a prior-filed non-provisional application in a later-filed copending application that has been **abandoned** without filing a petition to revive the later-filed application? (added 4Feb2005)
>
> Yes, a petition to revive the later-filed application is not required when applicant is adding a benefit claim by filing an amendment (or an application data sheet) to add the specific reference of the prior-filed non-provisional application. **A petition under 37 CFR 1.78(a)(3), however, is required if the later-filed application is a utility or plant application filed on or after November 29, 2000. If the later-filed application is a utility or plant application filed before November 29, 2000, a petition under 37 CFR 1.182 is required** (emphasis added).

The Revocation and Power of Attorney filed June 30, 2008 has been entered, as requested by petitioner.

Further correspondence with respect to this matter should be addressed as follows:

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ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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In re Application of	:	
Briton, et al.	:	
Application No. 10/722,733	:	DECISION ON PETITION
Filed: November 25, 2003	:	UNDER 37 CFR 1.182
Attorney Docket No. 11767-055-999	:	

This is a decision on the "THIRD REQUEST FOR RECONSIDERATION OF DECISION ON PETITION UNDER 37 C.F.R. §1.182", filed July 16, 2009, requesting entry of an Application Data Sheet (ADS) to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the ADS.

The petition is **DISMISSED**.

The above-noted **abandoned** application failed to make a specific reference to the prior-filed application; namely, that it is a continuation-in-part of 09/623,548, filed September 5, 2000, prior to abandonment.[1] In a petition filed June 30, 2008, petitioner requested that the instant abandoned application be amended by inserting a reference to the earlier-filed application. However, the petition was dismissed in a decision mailed on September 2, 2008. The decision acknowledged that 35 U.S.C. § 120 permits entry of a subsequent amendment or ADS to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (D.D.C. 1976). However, the decision noted that as the instant application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) was required.

Petitioners filed a request for reconsideration on October 31, 2008. Petitioners argued that a petition under 37 CFR 1.78(a)(3) is not required where applicants seek to change the relationship of the applications, citing MPEP 201.11(v). Petitioners argued that a mere change in the

[1] The application became abandoned for failure to file a reply to the non-final Office action mailed December 29, 2004.

relationship is what was sought – to amend the application to indicate that it is a continuation-in-part, rather than a continuation, of application No. 09/623,548. However, that petition was dismissed in a decision mailed on December 19, 2008. The decision acknowledged that it was true that if the instant application was in pendency status, then a petition under 37 CFR 1.78 would not be required to change the relationship between the applications. As set forth in MPEP 201.11(III)(A), the reference must state the proper relationship. On filing, both the specification and the ADS stated that the present application "claims priority to US Application No. 09/623,548". Thus, the change that petitioners are attempting to make is not merely a correction of the relationship. While the USPTO noted the 09/623,548 application on the filing receipt, the incorrect relationship was inserted. While a petition under 37 CFR 1.78 is unnecessary where the USPTO picks up the priority claim, if the USPTO picks up the priority claim and as a result of ambiguity in the claim the incorrect relationship is inserted on the filing receipt, a petition under 37 CFR 1.78 is necessary.

With a second request for reconsideration filed February 5, 2009, petitioners argued that they did file a paper with the application that included a relationship between the applications. Petitioner pointed out that the "REQUEST TO TRANSFER SEQUENCE LISTING FROM RELATED APPLICATIONS", filed on November 25, 2003, included the following language: "Applicants assert that the present application is a continuation of U.S. Application Serial Nos. 10/288,340 and 09/623,548...." Petitioners cited MPEP 201.11(V), which states in part:

> If an applicant includes a claim to the benefit of a prior application elsewhere in the application but not in the manner specified in 37 CFR 1.78(a)(2)(i) and (a)(2)(iii) or 37 CFR 1.78(a)(5)(i) and (a)(5)(iii) (e.g., if the benefit claim is included in an unexecuted oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a)(2)(ii) or (a)(5)(ii), the Office will not require a petition and the surcharge under 37 CFR 1.17(t) to correct the benefit claim if the information concerning the benefit claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt.

In a decision mailed on May 19, 2009, the Office noted that Petitioners' argument with respect to this matter had been considered and found to be persuasive. If the instant application were in pendency status, then petitioners were correct – no petition under 37 CFR 1.78 would be required to change the relationship between the applications, since petitioners did include a relationship elsewhere in the application on filing. However, as stated elsewhere in MPEP 201.11(V), "[i]f the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the benefit claim of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c) must be made during the **pendency** of the application."

In the second request for reconsideration filed February 5, 2009, Petitioners repeated the prior argument that Sampson v. Commissioner of Patents and Trademarks, 195 U.S.P.Q 136 (D.D.C. 1976) permits entry of an Amendment or ADS in an abandoned application. However, the May 19, 2009 decision pointed out that this was only true with respect to applications filed prior to November 29, 2000. In applications filed on or after November 29, 2000, 37 CFR 1.78 is explicit that a claim for priority must be made during the pendency of the later filed application. Petitioners were directed to the Office's publication found at "Eighteenth-Month Publication

Questions and Answers" (http://www.uspto.gov/web/offices/dcom/olia/aipa/18monthfaq .htm#cx4):

> CX14. Can applicant add a benefit claim of a prior-filed non-provisional application in a later-filed copending application that has been **abandoned** without filing a petition to revive the later-filed application? (added 4Feb2005)
>
> Yes, a petition to revive the later-filed application is not required when applicant is adding a benefit claim by filing an amendment (or an application data sheet) to add the specific reference of the prior-filed non-provisional application. **A petition under 37 CFR 1.78(a)(3), however, is required if the later-filed application is a utility or plant application filed on or after November 29, 2000. If the later-filed application is a utility or plant application filed before November 29, 2000, a petition under 37 CFR 1.182 is required** (emphasis added).

With his third request for reconsideration, petitioners once again request that the instant application be amended to indicate that it is a continuation-in-part, rather than a continuation, of prior-filed application No. 09/623,548. The crux of petitioners' argument is that they are not adding a benefit claim, but merely correcting an already existing, timely submitted benefit claim. Petitioners cites to CX6 of the "Eighteenth Month Publication Questions and Answers", which states that no petition under 37 CFR 1.78(a)(3) is required when applicant is changing the relationship, e.g. from "continuation" to "continuation-in-part". However, CX6 is silent with respect to the issue of whether a petition is required if the application sought to be amended is an abandoned application. Petitioners state that the USPTO has provided no basis for requiring a petition under 37 CFR 1.78(a)(3) to correct a timely made benefit claim merely because of the abandoned status of the application.

On the contrary, the authority is contained within 35 U.S.C. §120 itself, which states in pertinent part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time **during the pendency of the application** as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section (emphasis added).

As such, petitioners are not entitled to amend the instant application to reflect that it is a "continuation in part" of application No. 09/623,548, rather than a "continuation", because petitioners have not submitted an amendment or ADS in the instant application during its pendency.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED
JUN 10 2010
OFFICE OF PETITIONS

In re Application of :
Bridon et al. :
Application No. 10/722,733 : DECISION ON PETITION
Filing Date: November 25, 2003 : UNDER 37 C.F.R. § 1.78(A)(3)
Attorney Docket No.: 11767-055- :
999 :
Title: LONG LASTING SYNTHETIC :
GLUCAGON LIKE PEPTIDE (GLP-1) :

This is a decision on the fourth renewed petition pursuant to 37 C.F.R. § 1.78(a)(3), filed May 13, 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 Supplemental Application Data Sheet (ADS) filed concurrently with this fourth renewed petition. This is also a decision on the petition pursuant to 37 C.F.R. § 1.182, requesting expedited handling of the aforementioned petition.

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**. Receipt of the associated $400 petition fee is acknowledged. The petition pursuant to 37 C.F.R. § 1.78(a)(3) has been accorded expedited handling.

The fourth renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) is **DISMISSED**.

An original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on June 30, 2008, and was dismissed via the mailing of a decision on September 2, 2008.

A renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on October 31, 2008, and was dismissed via the mailing of a decision on December 19, 2008.

A second renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on February 5, 2009, and was dismissed via the mailing of a decision on May 19, 2009.

A third renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on July 16, 2009, and was dismissed via the mailing of a decision on March 15, 2010.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional. Since the statement contained in this fourth renewed petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(3)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

Receipt of the associated $1,410 surcharge is acknowledged. Requirements (2) and (3) above have been satisfied. The petition does not satisfy item (1) above.

Pursuant to Rule § 1.78(a)(2)(iii), the required reference must be included in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. Consequently, Petitioner has submitted a properly titled supplemental ADS with this fourth renewed petition, so as to present the required reference. However, the **supplemental ADS that was submitted concurrently**

with this fourth renewed petition cannot be entered, as it has not been executed. Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. § 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(b).

Any reply should include a cover letter entitled "Fifth Renewed Petition pursuant to 37 C.F.R. § 1.78(a)(3)," **and should include a supplemental ADS that is both properly titled and executed.** This is not a final agency action within the meaning of 5 U.S.C § 704.

The fifth renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the deciding official.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5]

Chris Bottorff
Supervisor
Office of Petitions

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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 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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GUY DONATIELLO
ENDO PHARMACEUTICALS
100 ENDO BOULEVARD
CHADDS FORD, PA 19317

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Galer, Bradley S.	:	
Application No. 10/722,737	:	ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. BSG 021 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on March 23, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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UGUR ORTABASI
1680 MEADOWGLEN LANE
ENCINITAS, CA 92024

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OFFICE OF PETITIONS

In re Application of	:	
Ortabasi, Ugur	:	
Application No. 10/722,738	:	DECISION ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. 2K042A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The Power of Attorney submitted on May 5, 2008 is hereby not accepted. It is believed that the Customer Number reflected on the Power of Attorney is the incorrect number. Although Customer No. 66804 is currently listed, it is believed that Customer No. 68804 is the proper number. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1753 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JOHN P. DELUCA
17420 RYEFIELD COURT
DICKERSON, MD 20842

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1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of :
Sam Keith Hurst :
Application No. 10/722,759 :
Filed: November 26, 2003 :
Attorney Docket No. HURSP103USA :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 15, 2004, which required the submission of a substitute specification, replacement drawings, and an abstract. No additional fees were required. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 16, 2004. A Notice of Abandonment was mailed on October 31, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the items required by the Notice of November 15, 2004, (2) the petition fee of $750, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the Notice of November 15, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Patent No. 7051870	:	
Issued: 05/30/2006	:	
Application No. 10/722775	:	ON PETITION
Filed: 11/26/2003	:	
Atty Dckt No. BRECO 3.0-004	:	

This is a decision on the request under 37 CFR 3.81(b),[1] filed on 26 September, 2006, to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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444 NORTH ORLEANS STREET
SUITE 400
CHICAGO, IL 60654

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OFFICE OF PETITIONS

In re Application of	:	
Robert J. MARSHALL	:	
Application No. 10/722,777	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. PRL-101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). 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 February 25, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1651 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.

/Diane C. Goodwyn/
Petitions Examiner
Office of Petitions

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WOODBRIDGE, NJ 07095

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JUN 0 3 2005

OFFICE OF PETITIONS

DECISION ON PETITIONS

In re Application of :
Nikolay Nikolayev :
Application No. 10/722,779 :
Filed: November 26, 2003 :
Attorney Docket No. 161/1 :
For: DATA GENERATING DEVICE FOR BULK :
VENDING MACHINES :

This is a decision on the petition under 37 CFR 1.137(b), to revive the above-identified application and on the petition under 37 CFR 1.47(b), filed March 4, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(b) is **GRANTED**.

Discussion of Petition under 37 CFR 1.137(b)

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 27, 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 28, 2004.

Discussion of Petition under 37 CFR 1.47(b)

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.

Petitioner has demonstrated that the non-signing inventor refuses to sign the application. Specifically, petitioner established that the nonsigning inventor, Nikolay Nikolayev, refuses to sign the declaration after being sent a copy of the above-identified application and declaration.

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.

Telephone inquiries related to 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.

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

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NIKOLAY NIKOLAYEV
84-10 34TH AVENUE
FLUSHING, NY 11372

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of
Nikolay Nikolayev
Application No. 10/722,779
Filed: November 26, 2003
For: DATA GENERATING DEVICE FOR BULK VENDING MACHINES

Dear Mr. Nikolayev:

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 Wan Laymon at (571)272-3220. 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).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
KAPLAN & GILMAN
900 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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OCT 27 2008

In re Application of	:	
NIKOLAYEV, Nikolay	:	
Application No. 10/722,779	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. **161/107**	:	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 08, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Michael R. Gilman on behalf of all attorneys of record who are associated with customer No. 27538. 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 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.

There is an outstanding Office action mailed April 16, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **NIKOLAY NIKOLAYEV**
84-10 34TH AVENUE
FLUSHING, NY 11372

cc: **MR. ELLIOTT PORCO**
NOVA RESOLUTION INDUSTRIES, INC.
P.O. BOX 240
BRONX, NY 10461

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TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: Furuumi, et al.
Application No. 10/722,781
Filed: 25 November 2003
For: INFORMATION PROCESSING SYSTEM, STORAGE SYSTEM, STORAGE DEVICE CONTROL APPARATUS AND PROGRAM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 30 December 2004, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 30 December 2004 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

Applicant's petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition does not point out specific limitations in each of the independent claims that may distinguish the invention over the references. Petitioner simply recites all the independent claims and then proffers one permutation, summation of the claimed features with an averment that none of the references meet this language. This amalgamation of limitations precedes a list of reference-descriptions, and serves as the petition's basis for distinguishing the independent claims from the given references. The permutation of claimed features, however, does not provide the requisite specificity regarding the limitations associated with each of the independent claims for correlation/contrast with the referenced prior art. Also, the feature summary appears to be presenting/arguing limitations in narrower terms than the limitations in claims 13 and 14. Hence, the summarized extraction is incongruous with all the claims and cannot fairly represent the limitations of each of the independent claims.

Filing for Accelerated Examination under MPEP § 708.02(VIII), requires Petitioner to provide a "detailed discussion of the references" that illuminates the salient prior art issues relative to the claimed subject matter. The instant petition, however, furnishes only a terse squib as the "discussion" for a number of the cited references. For example, in addressing references 1, 2, 3, et seq. the petition simply supplies a short abstract for each reference. Petitioner alludes to the references in broad terms, and fails to furnish the "detailed discussion of the references" in accordance with section (e) supra.

In the discussion of how the claims are patentable over the references, the petition must show, for each independent-claim, specific limitations that distinguish over each given reference in order to specify "how the claimed subject matter is patentable over the references."

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner 6/21/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 3 0 2005

Technology Center 2100

In re Application of: FURUUMI et al.
Application No. 10/722,781
Filed: November 25, 2003
For: INFORMATION PROCESSING SYSTEM, STORAGE SYSTEM, STORAGE DEVICE CONTROL APPARATUS AND PROGRAM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 25 August 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The renewed petition was filed in response to a dismissal of the original petition filed 30 December 2004.

The Petition is **DENIED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 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:

. . .

(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 original petition was dismissed for failing to meet requirement (e).

The renewed petition filed 25 August 2005 also fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the

references. The discussion fails to point out how each independent claim defines over each reference.

The petition identifies numbered features for each independent claim (a first feature for independent claim 1, . . ., an eighth feature for independent claim 14) and states that these purportedly claimed features distinguish the claims from the references.

For claims 1, 5, 6, 13, and 14, the numbered feature for each of these claims essentially recites all of the limitations of each of these claims. I.e., the petition purports that essentially the entirety of each of these claims is not taught by any of the references deemed most closely related. Such a statement is not a sufficient detailed description. Although the numbered feature for each of claims 2, 7, and 10 does not recite essentially the entirety of each claim, the numbered feature includes a substantial number of limitations. A statement that a substantial number of limitations are not taught by any of the references deemed most closely related is not a sufficient detailed description.

Also, some of the limitations which are purported to distinguish some of the independent claims from the references deemed most closely related do not appear to be in the claims. For example, the first feature of independent claim 1 recites that a first application program "sends data" from a first communication port to a second communication port and that a second application program "sends data" from a second communication port to a first communication port. However, claim 1 itself does not appear to require that data be sent. Rather, it appears to only require that the first application program "set" the first communication port as the sender of data and the second communication port as the destination of data and that the second application program "set" the second communication port as the sender of data and the first communication port as the destination of data. Similar concerns exist for claims 2, 13, and 14.

Petition to Make Special **DENIED**.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Gibbons, Del Deo, Dolan, Griffinger & Vecchione
1 Riverfront Plaza
Newark, NJ 07102-5497

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MAY 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard O. Glasson	:	
Application No. 10/722,789	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. CPI 3 CON	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2005, to revive the above-identified application.

The Office hereby acknowledges receipt of $750 for the petition to revive fee, an amendment, $510 for a three month extension of time, and two terminal disclaimers, under 37 CFR 1.321, with $65 for each filing.

Since petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $510 extension of time submitted with the petition on April 26, 2005 was subsequent to the maximum extendable period for reply; therefore, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 3745, 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
Office of the Deputy Commissioner
for Patent Examination Policy

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NEWARK, NJ 07102-5497

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OFFICE OF PETITIONS

In re Application of :
Richard O. Glasson :
Application No. 10/722,789 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket No. CPI 3 Con :

This is a decision on the petition under 37 CFR 1.137(b), filed on April 10, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the final Office action mailed August 3, 2005. A Notice of Abandonment was mailed on March 8, 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**.

The Office also acknowledges receipt of a request for Suspension of Action under 37 CFR 1.103(c), an Information Disclosure Statement (IDS) and a five (5) months extension of time filed on April 10, 2006. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $570 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3745.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/08

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction on Patent No.: 7221115

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:

The corrections are acceptable.

/T C Patel/
SPE

AU 2839
Art Unit

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MAY 02 2008

In re Application of	:	
Son et al.	:	
Application No. 10/722812	:	DECISION ON PETITION
Filed: 11/26/2003	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 29137.051.00	:	

This is a decision on the petition under 37 CFR § 1.55(c) for an unintentionally delayed foreign priority claim, filed March 10, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Korean Patent Application Nos. 2000-82085, filed December 26, 2000, and 1999-067746, filed December 31, 1999.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with items (2) and (5) above.

As to item (2), a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Applicant filed an Amendment to the Specification with the present petition, to amend the application to include the priority claim to the foreign application; however, an amendment to the first line of the specification following the title is only applicable to a petition to accept a delayed priority claim under 37 CFR 1.78 (a)(3) and (a)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

As to item (5), the present application was filed November 26, 2003, which is more than one year before both Korean Application No. 2000-82085, filed December 26, 2000, and Korean Application No. 1999-067746, filed December 31, 1999. Therefore, the provisions of 37 CFR 1.55(c) are not available to Applicant for the above-identified applications. If there are intervening applications that would satisfy the requirements of the statute so that priority may be claimed to the above-identified Korean applications, then priority to such applications must also be claimed.

It is also noted that the amendment to add the above-noted, prior-filed applications on page one following the first sentence of the specification improperly incorporates by reference the prior-filed Korean Patent Application Nos. 2000-82085, filed December 26, 2000, and 1999-067746, filed December 31, 1999. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a). "When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application, unless an incorporation by reference statement of the prior application was presented upon filing of the application." *See Dart Indus. v. Banner,* 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP § 201.11 (III).

Finally, the amendment includes an incorrect filing date for Korean Patent Application Nos. 2000-82085. The amendment incorrectly states the filing date as December 26, 20009.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Director 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 Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Son et al.	:	
Application No. 10/722812	:	DECISION ON PETITION
Filed: 11/26/2003	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 29137.051.00	:	

This is a decision on the petition under 37 CFR § 1.55(c) for an unintentionally delayed foreign priority claim, filed May 7, 2008, and supplemented July 23, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of U.S. Applications and foreign Korean Patent Applications set forth in the Supplemental Amendment and Amended Application Data Sheet filed July 23, 2008. The petition is properly under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c), and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to the prior-filed applications.

The petition is **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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.

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1794 for consideration by the examiner of applicant's entitlement to claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c), and under 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/722,812	11/26/2003	1794	1410	29137.051.00	46	5

CONFIRMATION NO. 8128

CORRECTED FILING RECEIPT

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

OC000000031377997

Date Mailed: 08/05/2008

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)

Se-Hwan Son, Daejeon-city, KOREA, REPUBLIC OF;
Jun-Gi Jang, Daejeon-city, KOREA, REPUBLIC OF;
Sang-Young Jeon, Seoul, KOREA, REPUBLIC OF;
Seok-Hee Yoon, Daejeon-city, KOREA, REPUBLIC OF;
Jae-Chol Lee, Daejeon-city, KOREA, REPUBLIC OF;
Kong-Kyeum Kim, Daejeon-city, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number 30827

Domestic Priority data as claimed by applicant

This application is a CIP of 09/914,731 08/30/2001 PAT 6,720,573
which is a 371 of PCT/KR00/01537 12/27/2000

Foreign Applications

REPUBLIC OF KOREA 2002-78809 12/11/2002
REPUBLIC OF KOREA 1999-67746 12/31/1999
REPUBLIC OF KOREA 2000-82085 12/26/2000

If Required, Foreign Filing License Granted: 02/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/722,812**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Electroluminescent devices with low work function anode

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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APR 27 2009
OFFICE OF PETITIONS

In re Application of :
Se-Hwan Son et al :
Application No. 10/722,812 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket No. 29137.051.00

This is a decision on the petition, filed April 22, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 20, 2009 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 1794 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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OCT 7 2004

Paper No. 091404

RUSSELL E. HATTIS
1640 JASMINE COURT
HIGHLAND PARK, IL 60035

In re Application of:	:	
MYER HECHT	:	DECISION ON PETITION
Serial No.: 10/722,816	:	TO MAKE SPECIAL
Filed: November 26, 2003	:	
Attorney Docket No.: HECHT P003	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 18, 2004 and supplemental petition filed August 28, 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 petitions include a declaration from the inventor, Myer Hecht, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 10/722,818 :
Filed: November 25, 2003 :
Attorney Docket No.002013.P135 :
For: VERTICAL STRUCTURE THIN FILM TRANSISTOR

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 11, 2006 to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the April 20, 2006 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on July 21, 2006. A Notice of Abandonment was mailed on August 23, 2006.

Petitioners allege that the April 20, 2006 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the April 20, 2006 Notice been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the file jacket for the April 20, 2006 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2826 for the re-mailing of the April 20, 2006 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OCT 19 2005

Edward Etkin, Esq.
Suite 3C
4804 Bedford Avenue
Brooklyn, NY 11235

In re application of Andreas Wiesmuller et al. Application No. 10/722,821 Filed: November 25, 2003 For: SYSTEM AND METHOD FOR PROVIDING COMMERCIAL SERVICES OVER A WIRELESS COMMUNICATION NETWORK	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on September 28, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 10/12/05

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Commissioner for Patents
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Sunil K. Singh
Dorsey & Whitney LLP
Intellectual Property Department
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Ternansky et al. :
Application No. 10/722,843 :
Filed: November 25, 2003 :
Attorney Docket No.: :
34433/US/4/AMP/SKS

DECISION GRANTED-IN-PART

This is a decision on the petition filed September 13, 2004, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed July 8, 2004, be withdrawn.

The application was filed on November 25, 2003. However, on July 8, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of November 25, 2004 but pages 27-49 of the specification (description and claims) appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends pages 27-49 of the specification were filed on November 25, 2003. In support, the petition is accompanied by a copy of applicant's return postcard which lists " 99 pps description, 17 pps claims and 1 pps abstract".[1] The petition is further accompanied by a copy of pages 27-49 of the specification (description and claims).

Applicant's postcard receipt is prima facie evidence that 117 pages of specification (description and claims) including pages 27- 49 of the specification were received on November 25, 2003, but pages 27-49 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that pages 27-49 of the

[1] It is noted 98 pages of description, 18 pages of claims and 1 page of abstract were submitted. Nonetheless the total number of pages 117 were submitted as specification including description and claims.

specification were received on November 25, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted pages of specification. However, the Notice was correct regarding the requirement to submit an executed oath or declaration. No petition fee is due. Deposit account 50-2319 will be refunded the $130.00 petition fee.

Since pages 27-49 of the specification cannot be located in the Office, pages 27-49 of the specification supplied on September 13, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 25, 2003, using the substitute pages 27-49 of the specification supplied on September 13, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Sonia Da Silva et al	:	
Application No. 10/722,844	:	DECISION GRANTING PETITION
Filed: November 26, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 14XZ130599	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and surcharge fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of February 25, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SIMONA A. LEVI-MINZI
McDERMOTT, WILL & EMERY
28 STATE STREET
BOSTON, MA 02109-1775

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of	:
Kevin R. Stone	:DECISION ON PETITION
Application No. 10/722,869	:UNDER 37 CFR 1.78(a)(6)
Filed: November 26, 2003	:
Attorney Docket No. CROL-156 (56290-103)	:

This is a decision on the petition filed March 28, 2005, which is being treated under 37 CFR § 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional Application No. 60/429,078, filed November 26, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on November 26, 2003, and was pending at the time of filing of the instant petition. Reference to the prior-filed application was made in the transmittal letter filed with the instant application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the above-noted, prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

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[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

The Associate Power of Attorney filed on March 28, 2005, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b)). The paper has been placed in the official file; however, the name of the patent practitioner listed on the Associate Power of Attorney has **not** been made of record.[2]

Any questions concerning this decision on petition may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1653 for appropriate action on the amendment filed March 28, 2005, including consideration of the claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/429,078.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] *See* Official Gazette of June 22, 2004

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OFFICE OF PETITIONS

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

In re Application of	:	
Bolt, et al.	:	
Application No. 10/722,874	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 01925-P0208A	:	

This is a decision on the papers styled, "Petition TO Accord Filing Date to Items Alleged Omitted," filed on August 23, 2004, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 26, 2003, including Figures 21-23 as described in the specification.

The application was filed on November 26, 2003. However, on August 4, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 21-23 as described in the specification appear to have been omitted.

In response, on August 23, 2004 the instant petition and one (1) sheet of drawings (which includes Figure 21-23) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "15 Sheets of Drawings," on November 26, 2003. A review of the application file indicates the presence of only fourteen (14) sheets of drawings originally filed on November 26, 2003, with the sheet containing Figures 21-23 missing. It is assumed that the missing sheet of drawings containing Figures 21-23 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on August 23, 2004 will be refunded to deposit account no. 19-4516.

This application will be returned to OIPE for processing with a filing date of November 26, 2003, using the one (1) sheet of drawings, containing Figures 21-23, that was submitted with the petition on August 23, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of
Bolt, et al.
Application No. 10/722,874
Filed: November 26, 2003
Attorney Docket No. 01925-P0208A

: DECISION DISMISSING PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition under §§ 1.78(a)(3) and 1.78(a)(6), filed June 12, 2006 (certificate of mailing date June 9, 2006) to accept an unintentionally delayed claim under under 35 U.S.C. §§ 120 and 119(e) for the benefit of a PCT International Publication and provisional application set forth in the concurrently filed amendment.

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, 2000and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending application must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number and indicating the

relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed June 12, 2006 (certificate of mailing date June 9, 2006) fails to state a PCT application number (instead it references an international publication number) and the relationship of the application to this application.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and a substitute amendment or an Application Data Sheet (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5) and (6)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of
Bolt, et al.
Application No. 10/722,874
Filed: November 26, 2003
Attorney Docket No. 01925-P0208A

: DECISION GRANTING PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the reconsideration petition under §§ 1.78(a)(3) and 1.78(a)(6), filed October 10, 2006 (certificate of mailing date October 6, 2006) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to a prior-filed PCT application and under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application 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 or an application within the chain of priority 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 365(c) 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 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should 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) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3616 for consideration by the examiner of the claim under 35 U.S.C. §§120 and 365(c) and § 119(e) of the prior-filed PCT and provisional applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/722,874	11/26/2003	3616	1242	01925- P0208A	15	39	3

CONFIRMATION NO. 1709

CORRECTED FILING RECEIPT

OC000000021410912

24126
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

Date Mailed: 11/30/2006

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)

David Bolt, Grand Haven, MI;
Randy Schutt, Holland, MI;
Victor A. Plath, Nunica, MI;

Power of Attorney:

Wesley Whitmyer Jr--33558
Steven Simonis--54449

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/16510 05/23/2002
which claims benefit of 60/293,616 05/25/2001

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 US10/722,874

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Trailing arm suspension and height control system with motorized valve therefor

Preliminary Class

280

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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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

Mail Date: 04/21/2010

Applicant	: Tetsushi Tanada	: DECISION ON REQUEST FOR
Patent Number	: 7567318	: RECALCULATION of PATENT
Issue Date	: 07/28/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/722,907	: OF WYETH
Filed	: 11/25/2003	:
		:

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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ROGER PITT
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK, NY 10022-6030

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AUG 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Ding, et al.	:	
Application No. 10/722,968	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. DING-LD3-NP	:	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 4, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "the attached copy of written instructions from an agent of the assignee", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary

evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

for David Bucci
Petitions Examiner
Office of Petitions

cc: BROWN, RUDNICK, BERLACK & ISRAELS, LLP.
BOX IP, 18TH FLOOR
ONE FINANCIAL CENTER
BOSTON, MA 02111

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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND CA 94618

AUG 21 2008

In re Application of	:	
HONG, JAY WU	:	
Application No.: 10/722,993	:	DECISION ON
Filing or 371(c) Date: 11/26/2003	:	PETITION
Attorney Docket Number: CISCO-7235	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed July 31, 2008. The petition is properly treated under 37 CFR 1.181(a).

This is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed April 1, 2008. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on July 29, 2008.

Applicant/Petitioner files the present petition and asserts that the Examiner never sent an Office action with a paper No. /Mail Date of March 26, 2008, nor were any drawings corrections mentioned in the Examiner's Amendment/Comment.

The Notice of Allowability

A review of the Notice of Allowability appeared to have included an objection to the drawings but that further inspection of the file history indicates that box (b) was checked in error. Supplemental Notice of Allowability was supplied to clarify the error.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext.175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 06/02/2010

Applicant	: Siva Ramakrishnan	: DECISION ON REQUEST FOR
Patent Number	: 7636810	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/723,009	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **238** 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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KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake, City UT 48111

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OFFICE OF PETITIONS

In re Application of

Wortley, et al.

Application No. 10/723,015

Filed: November 26, 2003

Attorney Docket No. 11984.5

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 18, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 19, 2006. A Notice of Abandonment was mailed on November 29, 2006.

The amendment filed February 1, 2007, is noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3611 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Hugh Harnsberger	: DECISION ON REQUEST FOR
Patent Number	: 7593967	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,018	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **739** 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.

MAILED
FROM DIRECTOR'S OFFICE

JUN 21 2006

TECHNOLOGY CENTER 3600

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re:	DAVID TERNES	:	DECISION ON
Serial No.:	10/723,023	:	FOR WITHDRAWAL OF
Filing date:	November 26, 2003	:	S.I.R. REQUEST
Docket No:	279.383USS		

Title: DYNAMIC BLANKING AND RECHARGE INTERVALS FOR CARDIAC RHYTHM MANAGEMENT

This is a decision on the petition filed on June 29, 2004 for withdrawal of a request for Statutory Invention Registration (SIR) in the above-identified application.

On November 26, 2003, a request for statutory invention registration was filed in the Office. Such a request is detailed in 37CFR 1.296 as cited below:

37 CFR 1.296. Withdrawal of request for publication of statutory invention registration. *A request for a statutory invention registration, which has been filed, may be withdrawn prior to the date of the notice of the intent to publish a statutory invention registration issued pursuant to § 1.294(c) by filing a request to withdraw the request for publication of a statutory invention registration. The request to withdraw may also include a request for a refund of any amount paid in excess of the application filing fee and a handling fee of $130.00 which will be retained. Any request to withdraw the request for publication of a statutory invention registration filed on or after the date of the notice of intent to publish issued pursuant to § 1.294(c) must be in the form of a petition pursuant to § 1.183 accompanied by the fee set forth in § 1.17(h) Therefore, pursuant to 37 CFR 1.296The request for statutory invention registration will be removed from the instant application and the fees refunded to the applicant.*

To date, a determination to publish the SIR request has not been made. Therefore the request is GRANTED.

A message will be forwarded to the appropriate office for consideration of the request for refund.

Any questions or concerns regarding this decision should be forwarded to Michael Carone @ 571 272-6873.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

OIPE JC148
JUN 2 9 2004
PATENT & TRADEMARK OFFICE

S/N 10/723,023 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David Ternes	Examiner: Unknown
Serial No.:	10/723,023	Group Art Unit: 3762
Filed:	November 26, 2003	Docket: 279.383USS
Title:	DYNAMIC BLANKING AND RECHARGE INTERVALS FOR CARDIAC RHYTHM MANAGEMENT	

PETITION TO WITHDRAW REQUEST FOR PUBLICATION OF AN STATUTORY INVENTION REGISTRATION PURSUANT TO 37 C.F.R. § 1.296 AND 37 C.F.R. § 1.183

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.296 and 37 C.F.R. § 1.183, Applicant petitions for withdrawal of the request for publication of an Statutory Invention Registration that was submitted to the Patent Office on November 26, 2003. Applicant wishes to prosecute this application.

Applicant additionally requests that fees paid in excess of the filing fee ($770.00) and the handling fee ($130.00) be refunded to Deposit Account 19-0743. The petition fee according to 37 C.F.R. § 1.17(h) of $130.00 is authorized to be charged to Deposit Account 19-0743.

The Examiner is invited to contact Applicant's Representative, at the number listed below, if prosecution may be assisted thereby.

Respectfully submitted,

DAVID TERNES

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6912

Date June 23, 2004 By [signature]
Timothy E Bianchi
Reg. No. 39,610

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 24 day of June, 2004.

LISA POSORSKE
Name

[signature]
Signature

MAILED
FROM DIRECTOR'S OFFICE

JUN 21 2006

TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re:	DAVID TERNES	:	DECISION ON
Serial No.:	10/723,023	:	FOR WITHDRAWAL OF
Filing date:	November 26, 2003	:	S.I.R. REQUEST
Docket No:	279.383USS		

Title: DYNAMIC BLANKING AND RECHARGE INTERVALS FOR CARDIAC RHYTHM MANAGEMENT

This is a decision on the petition filed on June 29, 2004 for withdrawal of a request for Statutory Invention Registration (SIR) in the above-identified application.

On November 26, 2003, a request for statutory invention registration was filed in the Office. Such a request is detailed in 37CFR 1.296 as cited below:

37 CFR 1.296. Withdrawal of request for publication of statutory invention registration. *A request for a statutory invention registration, which has been filed, may be withdrawn prior to the date of the notice of the intent to publish a statutory invention registration issued pursuant to § 1.294(c) by filing a request to withdraw the request for publication of a statutory invention registration. The request to withdraw may also include a request for a refund of any amount paid in excess of the application filing fee and a handling fee of $130.00 which will be retained. Any request to withdraw the request for publication of a statutory invention registration filed on or after the date of the notice of intent to publish issued pursuant to § 1.294(c) must be in the form of a petition pursuant to § 1.183 accompanied by the fee set forth in § 1.17(h) Therefore, pursuant to 37 CFR 1.296The request for statutory invention registration will be removed from the instant application and the fees refunded to the applicant.*

To date, a determination to publish the SIR request has not been made. Therefore the request is GRANTED.

A message will be forwarded to the appropriate office for consideration of the request for refund.

Any questions or concerns regarding this decision should be forwarded to Michael Carone @ 571 272-6873.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

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c/o FLETCHER YODER, PC
P.O. BOX 692289
HOUSTON, TX 77269-2289

Mail Date: 04/22/2010

Applicant	: Prakash Parayil Mathew	: DECISION ON REQUEST FOR
Patent Number	: 7627152	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,033	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1303** 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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CANTOR COLBURN LLP-IBM
POUGHKEEPSIE
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of :
Richard K. Errickson et al :
Application No. 10/723,044 :
Filed: November 25, 2003 :
Attorney Docket No. POU920030189US1 :

ON PETITION

This is a decision on the petition, filed May 3, 2007, which is being treated as a petition under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(2) Consideration of a submission pursuant to 37 CFR 1.114; or
(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The Office is unclear as to whether petitioner intends consideration under 37 CFR 1.313(c)(3), as no mentioned of an express abandonment or the filing date of an continuing application was mentioned in the petition filed May 3, 2007.

Additionally, a renewed petition will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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DAVID R. GILDEA
MENLO PATENT AGENCY
435 HERMOSA WAY
MENLO PARK, CA 94025

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MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Yiming Yu	:	
Application No. 10/723,082	:	NOTICE
Filed: November 26, 2003	:	
Attorney Docket No. A1298CON1	:	

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.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

03/19/04

Matthew T. Byne
300 Park Avenue
New York, NY 10022

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/723084 received on 01/12/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Hale and Dorr LLP
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/723084 received on 01/12/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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HOGAN & HARTSON
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

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APR 22 2004

OFFICE OF PETITIONS

In re Application of :
Alex Rabinovich et al :
Application No. 10/723,094 : NOTICE
Filed: November 25, 2003 :
Attorney Docket No. 89160.0022 :

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 application file is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST.
SUITE 210
PONTIAC MI 48342

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OFFICE OF PETITIONS

In re Application of	:	
John E. Kendall et al	:	
Application No. 10/723,096	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 62806A (1062-023)	:	

This is a decision on the petition, filed June 12, 2007, and resubmitted on June 19, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 27, 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 1732 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 26, 2007

TO SPE OF : ART UNIT ~~3723~~ 3726

SUBJECT : Request for Certificate of Correction for Appl. No. 10/723098 patent No.: 7069644

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

6/7/07

DAVID P BRYANT
SUPERVISORY PATENT EXAMINER

3726

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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OCT 10 2006

OFFICE OF PETITIONS

In re Patent of :
Kitagawa et al. :
Patent No. 6,836,170 :
Issue Date: December 28, 2004 :
Application No. 10/723,101 :
Filing Date: November 25, 2003 :
Attorney Docket No. 351991-992011 :

Decision on Petition

This is a decision in response to the paper filed June 15, 2006, which is being treated as a petition under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) 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.

The Office notes the cover sheet filed with the assignment was erroneous in so far as it only listed one of the assignees. A corrected cover sheet should be submitted. *See* MPEP 323.

The Certificates of Correction Branch will issue the requested certificate of correction in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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GALLAGHER & LATHROP, A PROFESSIONAL CORPORATION
601 CALIFORNIA STREET, SUITE 1111
SAN FRANCISCO, CA 94108

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OFFICE OF PETITIONS

In re Application of	:	
Kazuhisa Saito et al	:	
Application No. 10/723,102	:	DECISION GRANTING PETITION
Filed: November 26, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. KPO10201	:	

This is a decision on the petition, filed January 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 October 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of	:	
Padalia et al.	:	
Application No. 10/723,104	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. 306812006400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP, has been revoked by the assignee of the patent application on May 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Oran, et al.	:	
Application No. 10/723,118	:	DECISION ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 2705-311	:	

This is a decision on the petition, filed March 7, 2005 (certificate of mailing date March 3, 2005), under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the February 26, 2004 Notice to File Corrected Application Papers, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before April 26, 2004. A Notice of Abandonment was mailed on February 16, 2005.

Petitioner states that a timely reply was mailed via certificate of mailing on April 26, 2004, which included the following papers: a transmittal letter, a copy of the February 26, 2004 Notice, and seven sheets of formal drawings (comprising 7 figures). Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated April 26, 2004, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of February 26, 2004 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on April 26, 2004.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Initial Patent Examination for further processing.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THE GATES CORPORATION
IP LAW DEPARTMENT 10-A3
1551 WEWATTA ST
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of		
Donald R. Gilbreath	:	
Application No. 10/723,126	:	DECISION ON
Filed: November 25, 2003	:	PETITION
Attorney Docket No. C02-085A	:	

This is in response to the paper "PETITION", filed September 16, 2005, which is being treated as petitions to revive under 37 CFR 1.137(a) and 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed July 26, 2004. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on October 27, 2004. A Notice of Abandonment was mailed on February 1, 2005.

Petition Under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Petitioner offers two explanations as to why the entire delay was unavoidable. According to petitioner, he had a overly burdensome workload. In addition, a lapse of communication occurred between petitioner and his assistant. However, petitioner has failed to explain why precisely his workload prevented him from treating the prosecution of the instant application as his "most important business". In addition, petitioner has failed to elaborate on the communication problem with his assistant.

Accordingly, the entire period of delay in the above-identified application can not be characterized as "unavoidable".

The petition fee required for a petition to revive is required for the filing, not merely the grant, of the petition.[3] Accordingly, the $500 petition fee has been charged to Deposit Account No. 07-0475, as authorized.

Petition Under 37 CFR 1.137(b):

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an amendment, and made a statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II)(B).

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The $1500 petition fee has been charged to Deposit Account No. 07-0475, as authorized.

The application file is being forwarded to the Group Art Unit 3679 for examination.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

THE GATES CORPORATION
IP LAW DEPT 10-A3
1551 WEWATTA STREET
DENVER CO 80202

In re Application of	:	
Donald R. Gilbreath	:	
Application No. 10/723,126	:	DECISION ON PETITION
Filed: November 25, 2003	:	
Attorney Docket No. C02-085A	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 19, 2006.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a reply in response to the final Office action mailed April 4, 2006. A Notice of Abandonment was mailed on October 20, 2006.

A review of the application file reveals the presence of an RCE, together with an amendment and a three month extension of time, all filed on October 4, 2006. In addition, a review of Office records reveals that the Office received the fees for an RCE and the three month extension of time on that date. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn**.

The matter is being forwarded to Group Art Unit 3679 for consideration of the RCE, filed October 4, 2006.

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

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Paper No.

PFIZER INC
10555 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Stjernschantz et al.	:	DECISION ON APPLICATION
Application No. 10/723,140	:	FOR
Filed: November 25, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. PC30246J	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed July 31, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b)(3)(B)(i) be corrected from two hundred forty-three (243) days to two hundred forty-eight (248) days.

The application for patent term adjustment is **DISMISSED**.

On April 27, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 243 days. On July 31, 2006, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance was 248 days. Applicants dispute the reduction of 5 days associated with the filing of a response after non-final on April 3, 2006. Applicants state that they mailed the Response to the December 29, 2005 Office action on March 29, 2006 via the United States Postal Service First Class Mail. Further, applicants argue that this Response was timely filed as it was within the requisite 3-month time limit and included a signed Certificate of Mailing.

[1] PALM records indicate that the Issue Fee payment was also received on July 31, 2006.

Applicants state that the allowed application is not subject to a terminal disclaimer.

Applicants are incorrect. 37 CFR § 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Moreover, 37 CFR 1.703(f) provides that the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in this calculation. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail

correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

Accordingly, pursuant to § 1.704(b), the period of adjustment was properly reduced by 5 days, the number of days, beginning on March 30, 2006, the day after the date that is three months after the date of mailing of the non-final Office action, and ending on April 3, 2006, the date of filing of the reply.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred forty-three (243) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will forward the application to the Office of Patent Publication so that the application can be issued in a timely manner.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Application of :
Jake Rachal : DECISION ON PETITION
Application No. 10/723,149 :
Filed: November 23, 2003 :
Attorney Docket No. 12871/1 :

This is a decision on the PETITION UNDER 37 CFR § 1.181(a) filed July 17, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed April 20, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A Notice of Appeal was timely filed in response on October 24, 2005. A Notice of Abandonment was mailed on June 2, 2006 for failure to file an Appeal Brief.

Petitioner asserts that a proper reply in the form of a Request for Continued Examination (RCE), made timely by an accompanying petition for extension of time for response within the fifth month (and fee), was filed on May 23, 2005. In support thereof, petitioner submits a copy of the response filed May 23, 2005.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of May 26, 2006 (and a certificate of mailing pursuant to § 1.8 thereon dated May 23, 2006). Furthermore, the RCE was proper, inasmuch as it included payment of the requisite RCE fee, and a submission in the form of an amendment. The extension of time was charged to a Deposit Account as authorized.

A response including an RCE, the requisite fee and a submission is a proper response after Notice of Appeal to avoid abandonment of an application.

Accordingly, the Notice of Abandonment mailed June 2, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3742 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the RCE and submission filed on May 26, 2006 (with a certificate of mailing dated May 23, 2006).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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OCT 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Hyo-Hak Nam, et al.	:	
Application No. 10/723,178	:	DECISION DISMISSING PETITION
Filed: November 26, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8071-50 (OPP 030570 US)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not accompanied with the proper submission to the RCE. While waiting for the IDS to be faxed the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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F CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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DEC 1 1 2008

In re Application of :
Hyo-Hak NAM et al :
Application No. 10/723,178 : POST ISSUE COMMUNICATION
Filed: November 26, 2003 :
Attorney Docket No. 8071-50 (OPP 030570)

This is to notify applicant that the petition to revive under 37 CFR 1.313(c)(2), filed October 10, 2008, to withdraw the above-identified application from issue, after payment of the issue fee, was not granted by the appropriate officials before the date of issue. The application issued on October 14, 2008 as patent 7,436,473.

On October 17, 2008 the petition was **DISMISSED AS MOOT**.

In this case, a review of the record indicates that a proper Information Disclosure Statement (IDS) was filed with the petition to withdraw, and Request for Continued Examination (IDS). The IDS was submitted to the examiner for consideration and the citation of the IDS will be by way of a Certificate of Correction to the file.

The Information Disclosure Statement has been considered and made of record in the file of the above-identified application.

Petitioner's RCE and petitions fees were previously ordered to be refunded on October 10, 2008.

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

The file wil be forwarded to Certificate of Corrections Branch of issuance of a Certificate of Correction.

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

HUI HSIUNG CHAO
7F., No. 213
Civic Boulevard. Sec.4
Taipei 105 TW TAIWAN

COPY MAILED
JUN 05 2006
OFFICE OF PETITIONS

In re Application of
Hui Hsiung Chao
Application No. 10/723,193
Filed: November 25, 2003
Attorney Docket No.: PO3123-F003
Title: MEANS FOR UTILIZING THE HEAT SOURCE WITH EFFICIENCY

DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed August 1, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the period of delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 3, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 4, 2005. A notice of abandonment was mailed on June 14, 2005.

With the present petition, Petitioner has alleged that the mailing was not received. 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. In addition, a copy of the docket record where the non-received Office communication

would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be advised of this decision. The Technology Center's technical support staff will re-mail the non-final Office action. The three-month extendable time period for responding to the Office action will be set to run from the mailing date of the re-mailed Office action.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 See MPEP 711.03(c).

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Locke Lord Bissell & Liddell LLP
3 WORLD FINANCIAL CENTER
NEW YORK, NY 11281-2101

Mail Date: 04/21/2010

Applicant	: Chang Yi Wang	: DECISION ON REQUEST FOR
Patent Number	: 7648701	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,207	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **881** 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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McDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:
Shon R. Pulley et al	:
Application No. 10/723,220	: DECISION GRANTING PETITION
Filed: November 26, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02-1061-A	:

This is a decision on the petition, filed May 1, 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 April 4, 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\723220.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). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

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c/o FLETCHER YODER, PC
P.O. BOX 692289
HOUSTON, TX 77269-2289

Mail Date: 04/21/2010

Applicant	: Prakash Parayil Mathew	: DECISION ON REQUEST FOR
Patent Number	: 7596255	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,221	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1067** 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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TOLER SCHAFFER, LLP
5000 PLAZA ON THE LAKES
SUITE 265
AUSTIN, TX 78746

In re Application of	:	
DAHLIN, et al.	:	
Application No. 10/723,251	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. 1039-0070	:	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 19, 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).

A review of the file record indicates that Customer no. 60533 (Toler Schaffer, LLP): (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.

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.

Furthermore, Customer no. 60533 cannot be withdrawn from record because the power of attorney in this application was never appointed by customer number. The individuals given power of attorney on the OATH filed May 11, 2004 remain of record.

All future communications from the Office will continue to be directed to the below-listed address from the Correspondence Address change dated June 13, 2006 until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Amelia Au at 571-272- 7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc:

LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

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5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

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OFFICE OF PETITIONS

In re Application of	:
Michael Dahlin et al	:
Application No. 10/723,251	: DECISION ON PETITION
Filed: November 26, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1039-0070	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 22, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/992,035, as set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional application must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the application. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference

to Prior Nonprovisional Application. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petition Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Michael Dahlin et al	:
Application No. 10/723,251	: DECISION ON PETITION
Filed: November 26, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1039-0070	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 26, 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 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.

The Application Data Sheet submitted with the renewed petition on June 26, 2008 is improper. The Application Data Sheet does not list the Application Number; i.e., 10/723,251; however, the amendment to the specification satisfies item (1) above.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

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 application is being forwarded to Technology Center Art Unit 3686 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.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/723,251	11/26/2003	3686	531	1039-0070	29	3

CONFIRMATION NO. 6060

CORRECTED FILING RECEIPT

34456
LARSON NEWMAN ABEL & POLANSKY, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

OC000000034297438

Date Mailed: 01/29/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Dahlin, Austin, TX;
Eric Wohl, Austin, TX;
Randolph Lipscher, Austin, TX;

Assignment For Published Patent Application

RECARE, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 34456

Domestic Priority data as claimed by applicant

This application is a CIP of 09/992,035 11/23/2001
which claims benefit of 60/252,820 11/22/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/11/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/723,251**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Integrated virtual consultant

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COLLEY GODWARD LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

In re Application of
MONTA, PETER
Application No. 10/723,253
Filed: November 26, 2003

For: METHOD AND APPARATUS FOR TIME-MULTIPLEXED PROCESSING OF MULTIPLE VIDEO PROGRAMS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 16, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-6988

Cc: MR. BARRY R LIPITZ
LIPSTIZ & MCALLISTER LLC
775 MAIN STREET
MONROE CT 06468

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: Steven D. Girouard	: DECISION ON REQUEST FOR
Patent Number	: 7627373	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/723,258	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **566** 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
WWW.USPTO.GOV

Paper No. None

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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OFFICE OF PETITIONS

In re Application of
Stephen E. Gray, Stephen L. Roti, and David A. Seaman
Application No. 10/723,264
Filed: November 26, 2003
Attorney Docket No. 36287-04404
Title: METHOD AND SYSTEM FOR TRANSFER OF EMPLOYEE STOCK OPTIONS

DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed July 9, 2004.

On November 26, 2003, the application was deposited, identifying Stephen E. Gray, Stephen L. Roti, and David A. Seaman as joint inventors. The application was deposited without an oath or declaration. On February 25, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration, a surcharge of $130.00, and replacement drawings were required. This Notice set a two-month period for reply.

1A 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.

With the instant application, petitioner submitted the last known address of the non-signing inventor, a declaration signed by each of the inventors save Mr. Roti, replacement drawings, a declaration of facts, and the petition fee and surcharge. A three-month extension of time was included to make timely this response.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR §1.47(a).

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

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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Stephen L. Roti
33 Clubside Drive
Woodmere, NY 11598

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OFFICE OF PETITIONS

In re Application of
Stephen E. Gray, Stephen L. Roti, and David A. Seaman
Application No. 10/723,264
Filed: November 26, 2003
Attorney Docket No. 36287-04404
Title: METHOD AND SYSTEM FOR TRANSFER OF EMPLOYEE STOCK OPTIONS

LETTER

Dear Mr. Roti:

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, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0011. 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).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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OFFICE OF PETITIONS

In re Application of :
Wayne Schneider, et. al. :
Application No. 10/723,288 :
Filed: November 26, 2003 :
Attorney Docket No. 4623N-000016 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on December 8, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 23, 2005. A Notice of Abandonment was mailed on October 25, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

A review of the record fails to indicate that a change of address has been submitted. Therefore, since 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. If appropriate, a change of address should be filed in accordance with MPEP 601.03. All future correspondence regarding this application will be directed solely to the address of record until otherwise instructed.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Stephen T. Olson
5445 Corporate Drive
Troy, MI 48098

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 04/23/2010

Applicant	: David Anthony Tanner	: DECISION ON REQUEST FOR
Patent Number	: 7606888	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/12/09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/723317 Patent No.: 7294432 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: Reason to deny entry of the CoC, applicant's request stated that "Because the listed errors first occurred in the printed patent, and thus were not due to Applicant's mistake, no fee is required in connection with the request". However, a careful review of the 02/23/07 Specification amendment reveals that the title in question was replaced by applicant's request in response to an office action. As such, the printing of said tittle is not in error and do not constitute an office mistake. Thus, applicant should submit a correct statement and the required fee.

/Raymond Alejandro/ — **SPE**

1795 — **Art Unit**

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Fish & Richardson P.C.
5000 Bank One Center
1717 Main Street
Dallas, TX 75201

In re Application of:
Douglas P. Seams
Serial No. 10/723,322
Filed: November 26, 2003
For: METHOD AND SYSTEM FOR EXTRACTION OF RESOURCES FROM A SUBTERRANEAN WELL BORE

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed March 29, 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 VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition includes a statement by applicant's attorney, Mr. Brian W. Oaks, that "the invention relates to an improved technique for extracting energy resources from a subterranean well bore." Mr. Oaks further states that "the invention relates to a method for stimulating production of resources (such a(sic) coal bed methane gas) from a coal seam."

These statements are insufficient to grant a petition 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 VI: Energy. In this regard, these statements appear to be mere conclusions on Mr. Oaks' part, and without some details setting forth how the invention functions to extract energy resources from a subterranean well bore and stimulate production of resources from a coal seam, the above statements are inadequate to establish for the record that the invention "materially contributes to the development of energy resources". A detailed explanation of how the invention meets this criteria is required.

For the above stated reasons, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 10/14/04

Norma

PLEASE MAIL DECISION

Thanks

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

RWG
DH

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Fish & Richardson P.C.
5000 Bank One Center
1717 Main Street
Dallas, TX 75201

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FROM DIRECTORS OFFICE

JAN 13 2005

TECHNOLOGY CENTER 3600

In re Application of:
Douglas P. Seams
Serial No. 10/723,322
Filed: November 26, 2003
For: METHOD AND SYSTEM FOR EXTRACTION OF RESOURCES FROM A SUBTERRANEAN WELL BORE

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is in response to the renewed petition filed December 20, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

Applicant states that "the invention relates to a method for stimulating production of resources (such a(sic) coal bed methane gas) from a coal seam". Applicant further states that "according to certain embodiments, resource production from a well bore is improved by an efficient removal of water and obstructive materials". Additionally, applicant states that "in certain embodiments, efficiency of gas production may be improved in [ ]coal beds by increasing the permeability of parts of the coal by providing controlled collapse of a portion of the coal or other forms of stress relief in portions of the coal". Applicant further states that "in particular embodiments, a drainage well bore having a flatter curvature may be used to efficiently produce resources by angling the drainage well bore downward relative to the horizontal in the coal seam".

These statements, along with the technical overview of the manner in which applicant's invention will be used, are adequate to establish for the record that the

invention "materially contributes to the more efficient utilization and conservation of energy resources."

For the above stated reasons, the petition is **GRANTED**.

In view of the granting of the Petition to make Special based upon energy, any determination of the environment grounds for making the application special is now moot and thus will not be treated on those grounds.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 1/3/05

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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Enrico Alessi	: DECISION ON REQUEST FOR
Patent Number	: 7587280	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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G. GLENNON TROUBLEFIELD
CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

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OFFICE OF PETITIONS

In re Application of :
Jacques A. Manukyan :
Application No. 10/723,339 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket No. **335590-3** :

This is a decision on the petition filed June 15, 2006 under 37 CFR 1.182 to correct the spelling of the inventor and under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.182 is **GRANTED**.
The petition under 37 CFR 1.137 (b) is **GRANTED**.

Petitioner requests that the inventor's first name be corrected from "Jaques" to "Jacques" and provides a supplemental oath or declaration to reflect the correct spelling of the inventor's name. Although no declaration by the inventor explaining that the error was without deceptive intent has been provided, it appears that based on the nature of the error that perhaps a harmless typographical error has been committed. Petitioner's deposit account no. 03-0678 has been charged in the amount of $400.00 for the petition under 37 CFR 1.182.

This application also became abandoned May 9, 2006 for failure to timely pay the issue

---

[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)).

fee on or before May 8, 2006. Accordingly, a Notice of Abandonment was mailed June 20, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Mark E. Tuttle	: DECISION ON REQUEST FOR
Patent Number	: 7583862	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,363	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1678** 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

04/20/04

Stephanie L. Seidman
Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/723365 received on 03/24/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER & THOMAS
P.O. BOX 70250
OAKLAND, CA 94612-0250

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SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of	:
Bhushan Mangesh Kanekar et al	: DECISION GRANTING
Application No. 10/723,371	: PETITION
Filed: November 25, 2003	:
Attorney Docket No. CISCP110C1	:

This is a decision on petition under 37 CFR 1.181 and 1.10(c), filed May 2, 2005, which is being treated under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of November 25, 2003, rather than the presently accorded filing date of November 26, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on November 25, 2003, pursuant to the requirements of 37 CFR 1.10. In support, the petition is accompanied by, *inter alia*, a copy of the Express Mail receipt No. EV332828335US, which is the same Express Mail number found on the original itemized transmittal accompanying the original application papers located in the official file. It is noted that, while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a "USPS" receipt stamp dated "November 25, 2003".

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on November 25, 2003. Accordingly, the instant application is entitled to a filing date of November 25, 2003, and has been so accorded.

The petition is granted. No fee is required and none has been changed.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division to be processed into a patent.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARGER JOHNSON & McCOLLOM, P.C.
1030 S.W. MORRISON STREET
PORTLAND, OR 97205

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of
Keith W. Atkinson et al
Application No. 10/723,375
Filed: November 25, 2003
Attorney Docket No. 4164-272

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a

proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2614 for appropriate action on the amendment submitted January 11, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/477,664.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,112,830
Ser. No. : 10/723,382
Inventor(s) : Munns
Issued : Sep. 26, 2006
Title : SUPER LATTICE MODIFICATION OF OVERLYING TRANSISTOR
Docket No. : IR-3347 (2-5556)

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
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 117 or (703) 308-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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SAMUEL H. WEINER
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

MAR 24 2009

OFFICE OF PETITIONS

In re Patent No. 7,112,830	:	
Application No. 10/723,382	:	
Filed: November 25, 2003	:	ON PETITION
Issued: September 26, 2006	:	
Attorney Docket No. IR-3347 (2-5556)	:	

This is a decision on the petition filed December 8, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The $100.00 Certificate of Correction fee will be charged to petitioner's deposit account as authorized.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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UNITED STATES DEPARTMENT OF COMMERCE
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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

Applicant	: Thomas Redden Veariel	: DECISION ON REQUEST FOR
Patent Number	: 7632086	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/723,389	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **698** 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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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE, CA 95134

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APR 2 2 2004

OFFICE OF PETITIONS

In re Application of
Yee Chung Fu
Application No. 10/723,400
Filed: November 25, 2003
Attorney Docket No. KUO-P103-IC

DECISION GRANTING PETITION

This is a decision on the petition filed March 10, 2004, that is responsive to the "Notice Of Omitted Items in Nonprovisional Application" (the "Notice") mailed February 26, 2004.

On November 25, 2003, the application was deposited.

On February 26, 2004, the Office of Initial Patent Examination mailed the Notice stating that Figure 1A as described in the specification appeared to have been omitted. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on March 10, 2004, along with one sheet of drawing containing Figure 1A and a supplemental declaration. Petitioner indicated that petitioner is willing to accept the date that Figure 1A was filed as the application filing date.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claim 25 is a method claim. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of November 25, 2003.

In view of the above, the petition is **granted.** If petitioner still desires a filing date of March 10, 2004 (the date Figure 1A was filed), petitioner should file a renewed petition requesting that this decision be vacated and the later filing date accorded.

The petition fee of $130.00 will be refunded, in due course.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 25, 2003. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of Figure 1A.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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TOLER SCHAFFER, LLP
5000 PLAZA ON THE LAKES, SUITE 265
AUSTIN, TX 78746

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OFFICE OF PETITIONS

In re Application of	:	
WOHL, et al.	:	
Application No. 10/723,429	:	DECISION ON PETITION
Filed: November 26, 2003	:	TO WITHDRAW
Attorney Docket No. 1039-0060	:	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 19, 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 below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

for Denise Pothier
Petitions Examiner
Office of Petitions

cc: **LARSON NEWMAN ABEL**
POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE, SUITE 200
AUSTIN TX 78730

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Alexandria, VA 22313-1450
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BRIAN M. BERLINER, ESQ.
O'MELVENY & MYERS LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Neil Young, et al. :
Application No. 10/723, 430 :
Filed: November 25, 2003 :
Attorney Docket No. 510703-7 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 24, 2006. This decision precedes the mailing of a Notice of Abandonment. 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). On July 6, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $395; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2612 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of	:	
Kim R. SMITH, et al	:	
Application No. 10/723,455	:	DECISION ON PETITION
Filed: November 25, 2003	:	TO WITHDRAW
Attorney Docket No. 163.1735USU1	:	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 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

April Wise
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY (74074)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Kim R. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7592301	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,455	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **843** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STEVEN J. HENRY
WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON, MA 02210

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OFFICE OF PETITIONS

In re Application of	:	
Michael Byrne et al	:	
Application No. 10/723,464	:	DECISION GRANTING PETITION
Filed: November 26, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. T0461.70043 US00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 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 June 6, 2006, as required by the Notice of Allowance and Fee(s) Due mailed March 6, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($1,400 and $300, respectively); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-21-07 **Paper No.:** _____

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction for Appl. No. 7152675 (10/723465)

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Please Reply A/S/A/P. Attorney + Applicants Wants to Know the Status

Thanks.

E M James
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JENNIFER H. GAY
SUPERVISORY PATENT EXAMINER
SPE

3676
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

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OFFICE OF PETITIONS

In re Application of	:
Anand A. Kekre et al	:
Application No. 10/723,493	: DECISION ON PETITION
Filed: November 26, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. VRT0062P1US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 23, 2006, 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

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 forwarded to Technology Center Art Unit 2188 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.

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
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
10/723,493	11/26/2003	2188	1036	VRT0062P1US	6	30	4

CONFIRMATION NO. 9536
CORRECTED FILING RECEIPT
OC000000022317850
OC000000022317850

60429
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 02/05/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Anand A. Kekre, Pune, INDIA;
Ronald S. Karr, Palo Alto, CA;
John A. Colgrove, Los Altos, CA;
Kedar M. Karmarkar, Sunnyvale, CA;
Raghu Krishnamurthy, Cupertino, CA;
Saurabh R. Godbole, Pune, INDIA;
Ming Xu, San Ramon, CA;
Vikas K. Gupta, Santa Clara, CA;
Deepak Tawri, Pune, INDIA;

Power of Attorney:

Joseph FitzGerald--33881
Eric Stephenson--38321
John Brigden--40530
Julie Stephenson--41330
Marc Ascolese--42268
Samuel Campbell III--42381
Justin Dillon--42486
D'Ann Rifai--47026
Brenna Brock--48509

Domestic Priority data as claimed by applicant

This application is a CIP of 10/436,354 05/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/723,493

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Method and system of providing periodic replication

Preliminary Class

711

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).

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	US 10/723,619
Filing Date	November 28, 2003
First Named Inventor	David O. Sanders
Art Unit	1761
Examiner Name	
Attorney Docket Number	

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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JAN 1 0 2005

Approved 5/16/05
J Stone
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 39208

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Thomas M. Breininger				
Address	Nalco Company 1601 West Diehl Road				
City	Naperville	State	IL	Zip	60563-1198
Country	USA				
Telephone	(630) 305-2521	Fax	(630) 305-2521		
Signature					
Name	Craig Miles	Registration No.	45,954		
Date	January 10, 2004	Telephone No.	(970) 492-0000		

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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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of	:
Codani, et al.	: DECISION DISMISSING
Application No. 10/723,522	: STATUS UNDER 37 CFR
Filed: November 26, 2003	: 1.47(a)
Docket No.: GIO-001.01	:
For: SYSTEMS AND METHODS	:
FOR SEQUENCE COMPARISON	:
	:

This decision is in response to the petition under 37 CFR 1.47(a), filed October 21, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed November 26, 2003 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed April 22, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy item (2) set forth above. Petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented with the instant petition is unacceptable as it contains alterations that have not been initialed. *See*, 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Codani, et al.	:	DECISION GRANTING STATUS
Application No. 10/723,522	:	UNDER 37 CFR 1.47(a)
Filed: November 26, 2003	:	
Atty. Dkt. No.: GIO-001.01	:	
For: SYSTEMS AND METHODS FOR	:	
SEQUENCE COMPARISON	:	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed January 10, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Eric Glemet has refused to sign the declaration after having been presented with the application papers.

Thus, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
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

ERIC GLEMET
4 RUE MOLIERE
COURBEVOIE, France
92400

In re Application of
Codani, et al.
Application No. 10/723,522
Filed: November 26, 2003
Atty. Dkt. No.: GIO-001.01
For: SYSTEMS AND METHODS FOR SEQUENCE COMPARISON

LETTER

COPY MAILED
FEB 09 2005
OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
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

SMITH HOPEN, PA
180 PINE AVENUE NORTH
OLDSMAR, FL 34677

COPY MAILED
AUG 29 2008

In re Application of	:	
Maria Kallergi	:	
Application No. 10/723,540	:	DECISION ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 1372.96.PRC	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 2, 2007. Accordingly, the date of abandonment of this application is January 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00, (2) the petition fee of $770..00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN R. ROSS
PO Box 2138
DEL MAR CA 92014

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of
Vladimir M. Zlotopolski
Application No. 10/723,563
Filed: November 25, 2003
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed January 9, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the non-final Office action mailed April 4, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was believed to have been received within the allowable period, and the application became abandoned on July 5, 2007. A Notice of Abandonment was mailed on October 24, 2007.

Petitioner has established that the non-final Office action was mailed to an address other than the correspondence of address of record provided in the original disclosure. The correspondence address has been corrected in the UPSTO records.

The file is now being forwarded to Technology Center 1700, GAU 1797 for further processing including review of the amendment filed with the instant petition on January 9, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

April 11, 2005

David E. Heisey
Luce, Forward, Hamilton
& Scripps
11988 El Camino Real, Suite 200
San Diego, Ca 92130

In re Application of:
Michael Hogendijk
Serial No: 10/723,565 On Petition
Filing Date: November 25, 2003
For: **VASCULAR PROSTHESIS INCLUDING TORSIONAL STABILIZER AND METHODS OF USE**

In response to the petition received October 29, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed March 5, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned May 6, 2004.

The application will be completed with the documents received on October 29, 2004 and released to Technology Center 3731.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Loeb & Loeb LLP
321 North Clark
Suite 2300
Chicago, IL 60610-4746

In re Application of: Watzke et al.	)	
Application No. 10/723,575	)	
Attorney Docket No. 211485-10002	)	DECISION ON PETITION TO
Filed: November 26, 2003	)	MAKE SPECIAL
For: IMPROVED DUAL CHAMBER	)	
SALAD CONTAINER	)	

This is a decision on the petition under 37 C.F.R. § 1.102(c)(1) and M.P.E.P. § 708.02, Section III: Applicant's Health, filed November 26, 2003, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c)(1) and in accordance with M.P.E.P. § 708.02, Section III must be accompanied by any evidence "showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course..." . No fee is required for this petition.

The petition is accompanied by a declaration executed by one of the applicants, Maureen Watzke, regarding a serious health issue that might prevent her from assisting in the prosecution of an application if it were to run its normal course.

Accordingly, the petition is **GRANTED**. The application will be handled in accordance with the Office's guidelines for expedited prosecution. The Office regrets the delay in responding to this petition.

Applicants are also advised to review the invention's name for this application to confirm the proper title has been recorded with the USPTO (i.e., whether the invention is to include "Improved" or not).

Josie Ballato
Special Programs Examiner
Technology Center 3700
Mechanical Engineering, Manufacturing, Products and Designs
(571) 272-3567

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MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

In re application of:	:	
Edward Krause, et al.	:	
Application No. 10/723,583	:	DECISION ON REQUEST TO
Filed: November 26, 2003	:	WITHDRAW FROM RECORD
For: APPARATUS AND METHOD FOR DYNAMIC	:	
CHANNEL MAPPING AND OPTIMIZED	:	
SCHEDULING OF DATA PACKETS		

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on June 16, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 23419 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Mr. Barry R. Lipitz
Lipsitz McAllister, LLC
775 Main Street
Monroe, CT 06468

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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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Yuan-Ping Pang	: DECISION ON REQUEST FOR
Patent Number	: 7664625	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,594	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **301** 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.

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED

JUL 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,247,612	:	
Tamatani et al.	:	ON PETITION
Application No. 10/723602	:	UNDER 37 CFR 1.183 and
Issue Date: July 24, 2007	:	ON APPLICATION FOR
Filed: November 25, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705(d)
14539-004011	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed more than two months from the date the above-referenced patent issued; and on the 2) APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d), both of which were filed January 22, 2009.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On July 24, 2007, the application matured into U.S. Patent No. 7,247,612, with a revised patent term adjustment of 451 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date

the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request based on the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on July 24, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 22, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 24, 2007, the date two months from the date this patent issued, July 24, 2007. Rather, on January 22, 2009, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent. Further, petitioner argues that waiver is warranted as although the request for reconsideration is being filed outside of the two-month period, in view of Patentee's reliance on the Office's published interpretation of the patent term adjustment statute and regulations, and in the interest of fundamental fairness, Patentee requests suspension of the time limit consideration of an application for patent term adjustment.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term

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[2] 35 U.S.C. 154(b)(4) (A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. — (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than one months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

With respect to seeking judicial relief pursuant to 35 U.S.C. § 154(b)(4)(A), the Office has made clear that the fundamental principle of administrative law that one must first exhaust his or her administrative remedies before resort is had to the courts, and that the failure to seek administrative relief within the prescribed time period forecloses the right to judicial relief applies. In re Patent No. 6,484,146, 71 U.S.P.Q.2d (November 26, 2003)(Citing Barrington Manor Apartments Corp. v. United States, 392 F.2d 224, 227-228 (Ct. Cl. 1968); see also Mackay v. Commissioner of Patents and Trademarks, No. 99-1305, 1999, U.S. App. LEXIS 25718, at *4-5 (Fed. Cir., Oct. 18, 1999)). Petitioner if not on notice by established principles of administrative law was on notice by the Office's issuance of the above-cited Opinion that failure to file a request for reconsideration of patent term adjustment within the two-month period as required would likely foreclose their right to judicial relief. Yet they chose to not to file a request for reconsideration within the two-month period. This consequence of their failure does not render the failure an extraordinary situation warranting waiver of the two-month requirement. The key consideration, regardless of the time remaining to file a civil action, in determining whether waiver is warranted is whether the circumstance that led to petitioner

failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON APPLICATION FOR
PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed January 22, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to six hundred ninety-two (692) days.

On July 24, 2007, the above-identified application matured into U.S. Patent No. 7,247,612 with a revised patent term adjustment of 451 days. The instant request for reconsideration was filed more than eighteen months after the issuance of the patent, on January 22, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the

PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Telephone inquiries specific to this matter should be directed to Derek Woods, Attorney, Office of Petitions, at (571) 272-3232.

Nancy Johnson for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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OFFICE OF PETITIONS

In re Patent No. 7,247,612	: ON PETITION
Tamatani et al.	: UNDER 37 CFR 1.183
Issue Date: 07/24/2007	: and
Application No. 10/723602	: ON APPLICATION FOR
Filed: 11/25/2003	: PATENT TERM ADJUSTMENT
Attorney Docket No. 14539-004011	:

This is a decision on the "Response to Decision on Petition Under 37 C.F.R. § 1.183 and on Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)," filed September 21, 2009, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA"). The response is properly treated as a request for reconsideration of petition under 37 CFR 1.183.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

Your petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,247,612 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept <u>any</u> requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is

applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of July 16, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

This patent file is being referred to the Files Repository.

Telephone inquiries specific to this matter should be directed to Derek Woods, Attorney, Office of Petitions, at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

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In re Patent No. 6,994,595 :
Issue Date: February 7, 2006 :
Application No. 10/723,615 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket Number: 81762/341 :

This is in response to the paper filed May 23, 2006 requesting that status as a Small Entity be removed and for acceptance of a fee deficiency submission. The paper is being treated as a petition 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 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:-

DATE : October 26, 2006

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 6, 994, 595 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:

The changes are editorial in nature, not affecting the scope of the claims. Drawings are acceptacle.

T. C. Patel

SPE: Patel Tulsidas C **Art Unit** 2833

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In re Application of Gunther eissig Application No. 10/723,642 Filed: November 26, 2003 Attorney Docket No. MAS-FIN-101	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 5, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 29 2010

OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Application of	:	
Jang	:	
Application No. 10/723,644	:	ON APPLICATION FOR
Filed: November 26, 2003	:	PATENT TERM ADJUSTMENT
Docket No. S63.2H-11280-US01	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, 37 C.F.R. § 1.705, filed April 27, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred thirty-seven (1437) days, not one thousand two hundred (1200) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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) will be charged to deposit account no. 22-0350.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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In re Application of	:	
Jordan, et al.	:	
Application No. 10/723,706	:	DECISION
Filed: 26 November, 2003	:	
Attorney Docket No. SIG000106	:	

This is a decision on the petition (renewed) filed on 10 August, 2007, 2008, seeking to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 5 March, 2007, with reply due under a non-extendable deadline on or before 5 June, 2007.

Petitioner submitted an authorization for payment of the fees due on 7 May, 2007, however, there were insufficient deposit account funds, and the Office mailed Notice of that condition on 8 May, 2007.

The application went abandoned by operation of law after midnight 5 June, 2007

The Office mailed the Notice of Abandonment on 29 June, 2007.

On 10 August, 2007, Petitioner filed the instant petition with fee, the reply in the form of fees due, and a statement of unintentional delay.

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]

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.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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[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).

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[2]) 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

[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.

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Mail Date: 04/22/2010

Applicant	: Gopal B. Avinash	: DECISION ON REQUEST FOR
Patent Number	: 7623723	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,736	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1763** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 09-07

Paper No: __

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SEP 1 0 2007

OFFICE OF PETITIONS

ROHM AND HAAS
ELECTRONIC MATERIALS
CMP HOLDINGS, INC.
451 BELLEVUE ROAD
NEWARK DE 19713

In re Application of	:	
Wang	:	DECISION
Application No.: 10/723,746	:	
Filing Date: 25 November, 2003	:	
Attorney Docket No. 03049US	:	

This is a decision on the paper viewed as a petition filed on 11 April, 2007, to withdraw the holding of abandonment, improvidently pleaded under 37 C.F.R. §1.183 and properly considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to then non-final Office action (copy enclosed) mailed on 3 May, 2006, with reply due absent an extension of time on or before 3 August, 2006;
- the application went abandoned by operation of law after midnight on 3 August, 2006;
- the Office mailed the Notice of Abandonment on 5 April, 2007;
- on 11 April, 2007, Petitioner filed the instant petition, and averred therein, *inter alia*, non-receipt of the Office action in question, however, Petitioner made none of the required showings (discussed below), and while the acknowledgment of change of address is indirect, it is clear through Petitioner's averment of the practice that the "Holding Company at the old address had and continues to have a policy of forwarding mail to the new address," however, for whatever reasons that did not take place, and Petitioner has since filed a Notice of Change of Address–which paper properly and timely should have been filed with the Office prior to the physical change of address to which Petitioner refers.

Thus, while Petitioner may not have received the Office action in question, the reason for that non-receipt was Petitioner's failure to Notice the Office timely–not Office error.

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[2] 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.

The Rules of Practice provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules are not complied with/followed.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) can inform an applicant/practitioner as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[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.

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:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing required under the rule.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to 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)[11]

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.)

[11] See fee schedule: http://www.uspto.gov/main/howtofees.htm

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

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[14]) 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

Encl.
3 May, 2007, Non-final Office action

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[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.

[14] 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

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.
10/723,746	11/25/2003	Hongyu Wang	03049US	8965

7590 05/03/2006

Rodel Holdings, Inc.
Suite 1300
1105 North Market Street
Wilmington, DE 19899

EXAMINER
UMEZ ERONINI, LYNETTE T

ART UNIT	PAPER NUMBER
1765	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/723,746	WANG, HONGYU	
	Examiner	Art Unit	
	Lynette T. Umez-Eronini	1765	

-- 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 *12 April 2006*.

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) *1-7* 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) *1-7* 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

Request for Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/12/2006 has been entered because the formerly applied reference failed to address .

Claim Rejections - 35 USC § 103

2. 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.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 6,027,699).

Miura teaches, a polishing composition useful for polishing semiconductors (column 1, lines 1-2) and which comprises silica and water (Abstract column 3, lines 8-11). The content of silica is from 0.1 to 50 by weight (column 3, lines 56-59). Various additives such as surfactants such as sodium alkylbenzene sulfonate and a condensate of formalin with naphthalene sulfonic acid (same as applicant's polynaphthalene and sulfonated polynaphthalene surfactant) and aluminum oxides, zirconium oxides and titanium oxides, can be incorporated into the polishing composition (column 5, line 51 - column 6, line 8). Miura also teaches the polishing composition has a pH of at least 7 (column 6, lines 33-35), which encompasses a pH of less than 10. The aforementioned reads on,

An aqueous polishing slurry suitable for chemical mechanical polishing semiconductor substrates, comprising, by weight percent:

0.1 to 40 weight percent metal oxide particles, the metal oxide particles having a surface and a positive surface charge;

at least polynaphthalene surfactant; and

a balance of water with the slurry, **in claim 1**;

wherein the metal oxide particles comprise an abrasive oxide selected from the group comprising alumina, aluminum hydroxide oxide, ceria, iron oxide, lanthanum oxide, magnesium oxide, nickel oxide, silica, titania, yttria and zirconia, **in claims 2, 5, and 7;**

wherein the metal oxide particles are alumina, **in claim 3**;

An aqueous polishing slurry suitable for chemical mechanical polishing semiconductor substrates, comprising, by weight percent:

0.25 to 25 and 0.5 to 15 weight percent metal oxide particles, the metal oxide particles having a surface and a positive surface charge and the metal oxide particles comprising an abrasive oxide selected from the group comprising alumina, aluminum hydroxide oxide, ceria, iron oxide, lanthanum oxide, magnesium oxide, nickel oxide, silica, titania, yttria and zirconia;

at least polynaphthalene surfactant; and

a balance of water, respectively **in claims 4 and 6**.

Since Miura's polishing composition comprises the same chemicals as that of Applicant's polishing slurry, then using Miura's composition in the same manner as claimed by Applicant would result the same in the polynaphthalene surfactant being detectable in solution of the aqueous polishing slurry, as recited **in claims 1, 4, and 6**.

Miura differs in failing to specify the content of polynaphthalene surfactant as recited in claims 1, 4, and 6 and the slurry having a pH of less than 5 and 4, respectively in claims 4 and 6.

However, Miura illustrates the specific combination of a metal oxide particles, surfactant, and water is known. Since Miura teaches the same composition as claimed in the present invention, then using Miura's composition in the same manner as claimed by applicant would result the same in polynaphthalene surfactant for adsorption with at least a portion of the surface of the metal oxide particles in situ and for reducing

scratching of the semiconductor substrates. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select any proportion surfactant and pH in the Miura reference that would effectively accomplish the disclosed composition because it has been held that there is no invention where the difference in proportions is not critical and was ascertained by routine experimentation because the determination of workable ranges is not considered inventive. See In re Swain and Adams, 70 USPQ 412 (CPA 1946).

Response to Arguments

5. Applicant's arguments filed 3/22/2006 have been fully considered but they are not persuasive. Applicant traverses the 103(a) rejection of claims 1-7 over Miura et al. (US 6,027,699). Applicant argues, Miura fails to disclose using polynaphthalene surfactant for adsorption with metal oxide particles having positive surface charge. Applicant's argument is unpersuasive because no patentable is given to intended use of the composition.

Applicant argues the Miura references fails to disclose the use of alumina sol, fumed titania and fumed zirconia as optional additives to the fumed or colloidal silica. Applicant's argument is unpersuasive because these additives are not claimed.

Applicant argues the claims have been amended to include the negative charged polynaphthalene surfactant in the polishing solution. Applicant's argument is unpersuasive because the said surfactant is not claimed.

Applicant argues the Miura reference fails to disclose polynaphthalene surfactant adsorbs onto alumina particles to reduce scratching of semiconductor substrates and operates with negatively charged silica particles; and polynaphthalene surfactants will not adsorb onto negatively charged silica particles.

Miura's failure is acknowledged. However, Miura's polishing composition comprises silica and water (Abstract, column 1, lines 1-2; and column 3, lines 8-11); various additives such as surfactants such as sodium alkylbenzene sulfonate and a condensate of formalin with naphthalene sulfonic acid (same as applicant's polynaphthalene and sulfonated polynaphthalene surfactant) and aluminum oxides, zirconium oxides and titanium oxides, can be incorporated into the polishing composition (column 5, line 51 - column 6, line 8). Since Miura illustrates the specific combination of a metal oxide particles, surfactant, and water is known and teaches the same composition as claimed in the present invention, then using Miura's composition in the same manner as claimed by applicant would result the same in polynaphthalene surfactant for adsorption with at least a portion of the surface of the metal oxide particles in situ and for reducing scratching of the semiconductor substrates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynette T. Umez-Eronini whose telephone number is 571-272-1470. The examiner is normally unavailable on the First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on 571-272-1465. 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).

Art Unit 1765

ltue

April 26, 2005

NADINE G. NORTON
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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ROHM AND HAAS
ELECTRONIC MATERIALS
CMP HOLDINGS, INC.
451 BELLEVUE ROAD
NEWARK DE 19713

COPY MAILED

MAY 19 2008

OFFICE OF PETITIONS

In re Application of
Wang
Application No. 10/723,746
Filed: 25 November, 2003
Attorney Docket 03049US

DECISION

This is a decision on the petition filed on 20September, 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 this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to then non-final Office action (copy enclosed) mailed on 3 May, 2006, with reply due absent an extension of time on or before 3 August, 2006.

The application went abandoned by operation of law after midnight on 3 August, 2006.

The Office mailed the Notice of Abandonment on 5 April, 2007.

On 11 April, 2007, Petitioner filed a petition, and averred therein (under 37 C.F.R. §1.181), *inter alia*, non-receipt of the Office action in question, however, Petitioner made none of the required showings (discussed below), and while the acknowledgment of change of address is indirect, it is clear through Petitioner's averment of the practice that the "Holding Company at the old address had and continues to have a policy of forwarding mail to the new address," however, for whatever reasons that did not take place, and Petitioner has since filed a Notice of Change of Address–which paper properly and timely should have been filed with the Office prior to the physical change of address to which Petitioner refers—and the petition was dismissed on 10 September, 2007.

On 20 September, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of fees due, and made the statement of unintentional delay.

<u>The record (including the petition filed on 20 September, 2007. does not necessitate a finding that the delay between midnight 3 August, 2006 (the date of abandonment), and 20 September, 2007 (the date of filing of grantable petition), was not unintentional.</u>

<u>Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Blake T. Biederman (Reg. No. 34,124) when accepting Petitioners' representation that the delay in filing the response was unintentional.</u>[1]

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 those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

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[1] 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).

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

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).

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.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 1765 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 Technology Center/AU 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/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

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

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[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). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

[3] 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.))

[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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

OCT 17 2007

In re Application of	:	
Kaburagi	:	DECISION ON REQUEST TO
Application No. 10/723749	:	PARTICIPATE IN PATENT
Filed: November 25, 2003	:	PROSECUTION HIGHWAY
Attorney Docket No. CFA00062US	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 13, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 37428
RALEIGH NC 27627

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
VAN EPPS, Daniel J., Jr.
Application No.: 10/723,776
Filed: November 26, 2003
Attorney Docket No.: 9314-59

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

Mail Date: 04/21/2010

Applicant	: Steven Lawrence Fors	: DECISION ON REQUEST FOR
Patent Number	: 7574030	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,790	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1479** 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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Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

Mail Date: 04/21/2010

Applicant	: Rakesh Mohan Lal	: DECISION ON REQUEST FOR
Patent Number	: 7590306	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,791	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1693** 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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SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of
Farid ADRANGI, et al
Application No. 10/723,814
Filed: November 25, 2003
Attorney Docket No. 042390.P17494

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 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 22, 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 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received February 27, 2008.

April Wise
Petitions Examiner
Office of Petitions

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427 LAURIER AVEUE W., SUITE 1200
OTTAWA ON K1R 7Y2 CA CANADA

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MAY 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Timothy Kyowski	:	
Application No. 10/723,839	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 2173-161	:	

This is a decision on the petition, filed May 11, 2005 and supplemented on May 12, 2005, which is being treated under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **GRANTED**.

Petitioner requests that the application be withdrawn from issue to permit abandonment for consideration of an Information Disclosure Statement in a continuing application under 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application has been withdrawn from issue and is expressly abandoned in favor of continuing application No. 11/107,974 filed April 18, 2005.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Date : May 12, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Timothy Kyowski
Application No. : 10/723,839
Filed : November 26, 2003

The above-identified application has been assigned Patent No. 6,897,818 and an issue date of May 24, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 24, 2005:

> "All reference to Patent No. 6,897,818 to TIMOTHY KYOWSKI of CANADA for LOW PROFILE ANTENNA INSERT NUT appearing in the Official Gazette of May 24, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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DAVID B. COCHRAN, ESQ.
JONES DAY
NORTH POINT
901 LAKESIDE AVE
CLEVELAND, OH 44114

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of
Geyi Wen, et al.
Application No. 10/723,840
Filed: November 26, 2003
Attorney Docket No. 555255012647

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 21, 2005 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of John F. Woodson, II appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Woodson desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Woodson, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The 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 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries 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 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).

The application is being referred to Technology Center AU 2821 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

cc: JOHN F. WOODSON, II
ALLEN, DYER, DOPPELT, MILBRATH
& GILCHRIST, P. A.
255 S. ORANGE AVENUE, SUITE 1401
POST OFFICE BOX 3791
ORLANDO, FL 32802

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In re Patent No. 6865521
Issue Date: March 8,2005
Application No. 10723849
Filed: November 25,2003
Attorney Docket No. 771.011

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 13,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6865521	2005-03-08	10723849	2003-11-25	771.011

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WBUSKOP/	Date (YYYY-MM-DD)	2009-05-13
Name	Wendy Buskop	Registration Number	32202

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of :
Junjie Gu :
Application No. 10/723,877 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket No. P8940 :

This is a decision on the papers styled "Petition For Filing Date" filed August 27, 2004, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 26, 2003, including eleven (11) sheets of drawings.

The application was submitted on November 26, 2003. However, on July 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on August 27, 2004, the instant petition was submitted. Petitioner argues that eleven (11) sheets of drawings were filed on November 26, 2003. In support, the instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "11 sheet(s) of Drawings" on November 26, 2003. A review of the application file indicates the presence of zero (0) sheets of drawings. It is assumed that missing sheets of drawings were 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 26, 2003, using the eleven (11) sheets of drawings, supplied on August 27, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/02/05

TO SPE OF : ART UNIT **3636**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/723910 6935690

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:

_____

_____

_____

_____

_____

SPE _____ **Art Unit** 3636

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Laura A. Sheridan
Fish & Neave
1251 Avenue of the Americas
New York, NY 10020-1105

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/723911 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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Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

Mail Date: 04/21/2010

Applicant	: Michael R. Lax	: DECISION ON REQUEST FOR
Patent Number	: 7610782	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,911	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **17** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

Mail Date: 05/18/2010

Applicant : Michael R. Lax
Patent Number : 7610782
Issue Date : 11/03/2009
Application No : 10/723,911
Filed : 11/24/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **87** 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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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
STORA	:	
Application No.: 10/723,922	:	DECISION ON PETITION
Filing Date: November 24, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 81455-5520	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 16, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

With further regard to the statement in the petition that "such abandonment was unintentional", this statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 05/20/2010

Applicant	: David Tanner	: DECISION ON REQUEST FOR
Patent Number	: 7620848	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/723,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1050** 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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Jack C. Munro
Suite 225
28720 Roadside Drive
Agoura Hills CA 91301

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OFFICE OF PETITIONS

In re Application of
Jordan
Application No. 10/723,930
Filed: November 25, 2003
Attorney Docket No. N/A

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 25, 2006 (certificate of mailing date April 19, 2006), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 3, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

This application matured into Patent No. 6,761,184 on July 13, 2004 . Therefore, no further action being required, this patented file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

In re Application of	:	
Saravanakumar V. Tiruthani	:	
Application No. 10/723,932	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 2003P00078US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Greg H. Leitich 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.

This application became abandoned for failure to timely reply to the final Office action mailed October 17, 2007. A Notice of Abandonment was mailed on July 17, 2008. On August 5, 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 a Request for Continued Examination (RCE), including the fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 2146 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MOORE & VAN ALLEN PLLC
PO BOX 13706
RESEARCH TRIANGLE PARK NC 27709

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OFFICE OF PETITIONS

In re Application of	:	
James, et al.	:	
Application No. 10/723,933	:	DECISION ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. 014811-205.108	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed August 8, 2007, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 due to petitioner's contention that no petition fee should be charged.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the "NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID DISCLOSURES", mailed November 16, 2006. This Office action set an extendable period for reply of one (1) month. The Office mailed a Notice of Abandonment on July 24, 2007, stating that no reply had been received.

A review of the application file reveals the presence of response to the Notice, filed on February 15, 2007, and made timely by obtaining a two month extension of time. In addition, the reply appears to be *bona fide*. Accordingly, it is concluded that that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to the Office of Patent Application Processing for consideration of the reply February 15, 2007.

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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Kenneth D. James	: DECISION ON REQUEST FOR
Patent Number	: 7662773	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/723,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

In re Application of	:	
Hibiki Saeki et al	:	
Application No. 10/723,942	:	ON PETITION
Filed: November 26, 2003	:	
Attorney Docket No. SIW-074RCE2	:	

This is a decision on the petition, filed June 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 22, 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 3661 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : June 28, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hibiki Saeki et al
Application No. :10/723,942
Filed :November 26, 2003

The above-identified application has been assigned Patent No. 7,076,344 and an issue date of July 11, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 11, 2006:

"All reference to Patent No. 7,076,344 to Hibiki Saeki et al of Japan for CONTROL APPARATUS FOR FUEL CELL VEHICLE appearing in the Official Gazette of July 11, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19103-3508

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JUL 06 2005

OFFICE OF PETITIONS

Applicant: Chen et al.
Appl. No.: 10/723,955
Filing Date: November 26, 2003
Title: CONSTITUTIVELY ACTIVATED HUMAN G PROTEIN COUPLED RECEPTORS
Attorney Docket No.: 7.US29.CON
Pub. No.: US 2004/0110238 A1
Pub. Date: June 10, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 9, 2004, for the above-identified application.

The request is granted.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 11 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOSICEVIC, FIELD & FRANCIS LLP (AREN)
(ARENA PHARMACEUTICALS, INC.)
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

In re Application of	:
CHEN	:Decision on Petition
Serial No.: 10/723,955	:
Filed : 26 November 2003	:
Attorney Docket No.: AREN-007CON2(7.US29.CON)	

This letter is in response to the Renewed Petition under 37 C.F.R. 1.181 filed on 6 March 2008 requesting consideration of the Examiner's communication mailed 28 February 2008.

BACKGROUND

This application is filed under 35 USC 111(a) and, as such, is subject to restriction requirement per MPEP Chapter 800.

On 10 October 2006, the examiner mailed a requirement for restriction among 4 groups.

On 2 February 2007, applicants elected Group III with traverse and requested that Group III be joined with Group IV for examination.

On 9 May 2007, the examiner considered the traversal and rejoined Groups III and IV together for examination on the merits.

On 5 November 2007, applicants responded to the Office action by cancelling all pending claims and by adding new claims 69-87.

On 28 February 2008, the examiner sent out a communication which stated that the amendment was non-responsive under MPEP 821.03 because the examiner reasoned, the amendment cancelled all cancelling all claims directed to the elected invention.

On 6 March 2008, applicants filed this petition.

DISCUSSION

The file history and petition have been considered carefully. The invention which has been examined in the first Office action on the merits is described by the examiner as Groups III and IV[1] in the restriction requirement as follows:

III. Claims 33-35, drawn to method of using a G protein-coupled receptor of SEQ ID NO:82 to screen candidate compounds as pharmaceutical agents for a disease or disorder ameliorated by an elevation of an intracellular level of cAMP in peripheral blood leukocytes, classified in class 435, subclass 7.1.

IV. Claims 51-59, drawn to a method for identifying one or more candidate compounds as a modulator of a non- endogenous, constitutively activated version of a G protein-coupled receptor, wherein said receptor comprises an amino acid sequence of SEQ ID NO:82 that comprises a substitution of an amino acid other than an isoleucine for the isoleucine at position 225 of said amino acid sequence., classified in class 435, subclass 7.1.

The invention which has been examined in the first Office action on the merits has been claimed as follows:

[1] The examined rejoined Groups III and IV for concurrent examination on the merits in the Office action dated 9 May 2007.

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33. **(Now cancelled)** A screening method for identifying a compound as a pharmaceutical agent for the treatment of a disease or disorder ameliorated increasing intracellular level of cAMP in peripheral blood leukocytes, said method comprising:

(a) contacting a candidate compound with a host cell or membrane thereof that comprises a G protein-coupled receptor (GPCR), wherein said GPCR comprises an amino acid sequence that is at least 80% identical to the amino acid sequence of SEQ ID NO:82; and

(b) measuring the ability of the compound to act as an agonist or partial agonist of the GPCR;

wherein an ability to act as an agonist or partial agonist of the GPCR indicates that the compound can be employed as a pharmaceutical agent for the treatment of said disease or disorder.

51. (New) A method for identifying one or more candidate compounds as a modulator of a non-endogenous, constitutively activated version of a G protein-coupled receptor, said method comprising the steps of:

(i) contacting said one or more candidate compounds with a host cell or with membrane of a host cell that expresses said receptor; and

(ii) measuring the ability of the compound or compounds to inhibit or stimulate functionality of the receptor,

wherein said receptor comprises an amino acid sequence of SEQ ID NO:82 that comprises a substitution of an amino acid other than an isoleucine for the isoleucine at position 225 of said amino acid sequence.

The independent claim submitted on 5 November 2007 stated:

69. (New) A method of screening for a compound that increases cAMP levels in peripheral blood leukocytes, comprising:

(a) contacting a candidate compound with a G protein-coupled receptor (GPCR) that is present on the surface of a recombinant host cell or isolated membrane thereof, wherein said GPCR comprises an amino acid sequence that is at least 80% identical to the amino acid sequence of SEQ ID NO:82;

(b) determining if said candidate compound is an agonist of said GPCR; and

(c) determining if said agonist increases cAMP levels in a peripheral blood leukocyte.

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The examiner reasoned that the new claims are not directed to the same invention as Group III/IV because the new claims do not screen for candidate compounds a pharmaceutical agents for as a disease or disorder ameliorated by an elevation of an intracellular level of cAMP in peripheral blood.

The examiners reasons are not commensurate in scope with the claims. Neither new claim 69 nor previously examined Claim 51 required the limitation of "screening for candidate compounds a pharmaceutical agents for a disease or disorder ameliorated by an elevation of an intracellular level of cAMP in peripheral blood."

New claim 69 contains active steps comparable to claims 33 and 51. New Claim 69 encompasses the same embodiment as claims which had previously been examined. As stated in MPEP 806.03,

> 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.

Because of these similarities, Claim 66 is not considered distinct from claim 33 or 51. For these reasons, the amendment filed 5 November 2007 is considered responsive and will be entered into the file.

DECISION

The petition filed under 37 CFR 1.181 on 6 March 2008 is **GRANTED**.

The amendment filed 5 November 2007 will be entered.

The application will be forwarded to the examiner to consider the papers filed 5 November 2007 and to prepare an Office action consistent with this petition decision.

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 703-272-8300.

John LeGuyader
Director, Technology Center 1600

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Debra J. Belton
15183 Chamisal
Chesterfield MO 63017

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of

Debra Jean Belton

Application No. 10/723,958

Filed: November 25, 2003

Attorney Docket No.

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed June 8, 2006. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on September 12, 2006. An Advisory Action mailed September 28, 2006, advised that the response of September 12, 2006, failed to place the application in condition for allowance. A response was filed on October 3, 2006, with a request for an extension of time within the first month. An Advisory Action mailed November 9, 2006, advised that the response of October 3, 2006, failed to place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on October 9, 2006. A Notice of Abandonment was mailed on December 19, 2006.

The Request for Continued Examination and amendment filed August 9, 2007, is noted and made of record.

The application file is being forwarded to Technology Center 3700, GAU 3732 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/11/08

Paper No.: —

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/723972 Patent No: 7218765 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: NA-T1

BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOLER SCHAFFER, LLP
5000 PLAZA ON THE LAKES, SUITE 265
AUSTIN, TX 78746

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of

DAHLIN, et al.
Application No. 10/723,991
Filed: November 26, 2003
Attorney Docket No. 1039-0011-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 May 19, 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 below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

for Denise Pothier
Petitions Examiner
Office of Petitions

cc: **LARSON NEWMAN ABEL**
POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE, SUITE 200
AUSTIN TX 78730

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 7, 2006

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/723999 Patent No.: 7,005,005 B

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: _____

J.A. LORENGO
SUPERVISORY PATENT EXAMINER
SPE

Art Unit

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,005,005 B2

DATED : Feb. 28, 2006

INVENTOR(S) : Maile et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page
Item 54, Title, change "BIND" to --BINDING--

Column 1
Line 1, change "BIND" to --BINDING--

Column 2
Line 67, change "revegatation" to --revegetation--

Column 4
Line 1, after "crystal matrix" insert --)--

Column 5
Line 50, change "causes" to --cause--

Column 6
Line 2, after "to about 5%" remove [by weight of]
Line 49, after "to about 75%" remove [by weight of]
Line 58, remove [be]

Column 9
Line 47, change "revegatation" to --revegetation--
Line 55, change "seeds. Seeds" to --seeds in--

Column 12
Line 62-63, after "sodium hydroxide" remove [and potassium hydroxide]
Line 63, change "were" to --was--

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 7,005,005 B2

John M. Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ 0

P15/REV03

JUN 30 2006

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,005,005 B2

DATED : Feb. 28, 2006

INVENTOR(S) : Maile et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 13

Line 44-45, after "sodium hydroxide" remove [and potassium hydroxide]

Line 45, change "were" to --was--

Column 15

Line 28, after "pH adjustor" insert --is--

MAILING ADDRESS OF SENDER (Please do not use customer number

John M. Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

PATENT NO. 7,005,005 B2

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P15/REV03

JUN 30 2006

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P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Alexei A. Erchak et al
Application No. 10/724,006
Filed: November 26, 2003
Attorney Docket No. 16459-009001

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2811 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).*

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

CONFOR MIS, INC.
323 VINTAGE PARK DR.,
SUITE C
FOSTER CITY CA 94404

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of :
Aaron Berez et al. :
Application No. 10/724,010 :
Filing Date: November 25, 2003 :
Attorney Docket No.: 6700-
0005.21 CI01-U03.US3 :
Title: PATIENT SELECTABLE JOINT :
ARTHROPLASTY DEVICES AND :
SURGICAL TOOLS FACILITATING :
INCREASED ACCURACY, SPEED AND :
SIMPLICITY IN PERFORMING TOTAL :
AND PARTIAL JOINT ARTHROPLASTY :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition under 37 C.F.R §1.137(b)[1], filed June 19, 2006, 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 19, 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.

---

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.

Accordingly, the above-identified application became abandoned on October 20, 2005. A notice of abandonment was mailed on March 17, 2006.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the present petition, Petitioner has submitted the petition fee, an amendment, and a statement which is being construed as the proper statement of unintentional delay. It is noted that a terminal disclaimer is not necessary.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct

knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: ALEXANDER J. SMOLENSKI, Jr.
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

---

2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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7/13/07

ALEXANDER J. SMOLENSKI
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

In re Application of	:
Berez et al.	:
Serial No.: 10/724,010	: PETITION DECISION
Filed: November 25, 2003	:
	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed March 15, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact Corrine McDermott by mail addressed to: Director, Technology Center 3700, at the address listed above, or by telephone at 571-272-4754 or by facsimile transmission at 571-273-8300.

Corrine McDermott
SPE, Art Unit 3738

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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OFFICE OF PETITIONS

In re Application of	:	
Aaron Berez et al.	:	
Application No. 10/724,010	:	DECISION GRANTING PETITION
Filed: November 25, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2960/116	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 23, 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 March 20, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and Amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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DARBY & DARBY PC
PO BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Application of	:	
Timothy L. Blankenship, Sijian Chen	:	
Application No. 10/724,028	:	
Filed: November 26, 2003	:	DECISION ACCORDING STATUS
Attorney Docket No. 08211/0200253	:	UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 25, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on November 26, 2003, without a fully executed oath or declaration. Accordingly, on February 27, 2004, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application", requiring, *inter alia*, a fully executed oath or declaration as well as the surcharge for its late filing. This notice set a shortened statutory period for reply of two months.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has included an e-mail from inventor Sijian Chen dated March 28, 2004, in which Chen evidences his constructive refusal to sign the application papers. Shortly thereafter, Chen was not able to be located when copies of the application papers were forwarded to his last known address.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2819 for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Alexei A. Erchak et al
Application No. 10/724,029
Filed: November 26, 2003
Attorney Docket No. 16459-010001

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/03/2010

Applicant	: Minoru Nishida	: DECISION ON REQUEST FOR
Patent Number	: 7624676	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/724,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **887** 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.

2 4 MAY 2007

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BROWDY AND NEIMARK, P.L.L.C.
PATENT AND TRADEMARK CAUSES
SUITE 300
624 NINTH STREET, N.W.
WASHINGTON DC 20001-5303

In re Application of:
FINAROV et al.
U.S. Application No.: 10/724,113
Filing Date: 01 December 2003
Atty Docket No.: FINAROV3A
For: METHOD AND SYSTEM FOR MEASURING PATTERNED STRUCTURES

DECISION ON PETITION

This decision is issued in response to the "COMMUNICATION" requesting acceptance of a copy of a submission originally filed on 13 June 2006, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 01 December 2003, applicant filed a Transmittal Letter for a new U.S. application under 35 U.S.C. 111(a) accompanied by, among other materials, payment of the basic filing fee.

On 03 May 2006, an Office action was mailed to applicant indicating that claims 1-96 were subject to restriction and/or election requirements. On 13 June 2006, applicant allegedly filed a response.

On 29 November 2006 and 4 January 2007, the instant petition considered herein was filed. The petition asserts that, on 13 June 2006, applicant filed a timely response to the 3 May 2006 Office action. A copy of the previously filed response and a copy of a return postcard that itemizes the 13 June 2006 submission and bears a USPTO receipt stamp dated 13 June 2006 accompany the petition.

DISCUSSION

Based on the statements in the present petition and the itemized return postcard bearing the USPTO receipt stamp, it is concluded that materials accompanying the present petition (including the Response to the election requirement) were originally filed herein on 13 June 2006 as a timely response to the Office action mailed 03 May 2006.

CONCLUSION

The petition under 37 CFR 1.181 to accept a copy of the response filed on 13 June 2006 in

application 10/724,183 with a filing date of 13 June 2006 is **GRANTED**.

The "Response" accompanying the present petition will be treated as having been filed on 13 June 2006.

This application is being returned to Art Unit 2877 for consideration of the response originally filed on 13 June 2006.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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Alfred F. Hoyte, Esq.
7734 16th Street, N.W.
Washington, DC 20012

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rebecca A. Dow :
Application No. 10/724,190 :
Filed: December 1, 2003 :
Attorney Docket No. RD1003.UPA :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed March 22, 2005. A Notice of Abandonment was mailed on October 18, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on June 2, 2006, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

-Courtesy Copy-

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/724,190	Applicant(s) DOW, REBECCA A.	
	Examiner Gloria Hale	Art Unit 3765	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 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: 4.
   Claim(s) rejected: 1-3 and 5-7.
   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: _____.

Gloria Hale
Primary Examiner
Art Unit: 3765

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LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109

In re Application of :
John Fitzgerald Kokai-Kun, et al. :
Application No. 10/724,194 : ON PETITION
Filed: December 1, 2003 :
Attorney Docket No. SYNI-007RCE2 :

This is a decision on the petition, filed July 6, 2009, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 31, 2008. A Notice of Abandonment was mailed on August 17, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). On July 6, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $270; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1645 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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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ALEXANDRIA, VA 22320

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In re Application of	:	
Masahiko Yamamoto, et al.	:	
Application No. 10/724,207	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No.: 117914	:	

This is a decision on the petition, filed April 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 15, 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 2824 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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2-1-06

In re application of :
Kwon et al. : DECISION ON
Serial No. 10/724,219 : PETITION
Filed: December 1, 2003 :
For: TAPE SUBSTRATE AND METHOD FOR FABRICATING THE SAME

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT IN THE OFFICE ICE ACTION mailed September 28, 2004.

On September 28, 2004, a restriction requirement was made by the examiner. The group of claims as set forth in the requirement were directed to a substrate and a method of making same. Applicants traversed the restriction requirement in a response filed October 28, 2004. The examiner maintained the requirement in an office action mailed January 10, 2005. Applicants again traversed the requirement in a response filed on May 9, 2005 and the examiner again maintained the restriction requirement in an office action mailed August 1, 2005.

On March 7, 2002, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(f) of the MPEP state in part:

803 [R-3] Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct.

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

806.05(f) [R-3] Process of Making and Product Made
A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed

can be used to make another materially different product; or (B) that the product as claimed can be made by another materially different process.
Allegations of different processes or products need not be documented.

If applicant convincingly traverses the requirement, the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement.

In the restriction requirement mailed on September 28, 2004, the examiner required restriction between a tape substrate and a method of producing a tape substrate. The examiner took the position that the inventions are distinct because the product as claimed could be made by a different process and that the process could be used to make a different product.

In the responses filed October 28, 2004 and May 9, 2005, applicants argued that the examples cited by the examiner to show distinctness fail to meet the burden required for such a showing. It was argued specifically that the example put forth by the examiner regarding a different method of producing the instantly claimed product would not in fact produce that same product.

In all responses to the traversal of the restriction requirement, the examiner has failed to specifically address any of the arguments set forth by Applicant. Instead, she merely stated that there would be a burden to search to examine all of the claims and/or the claims may be rejoined at a later time if the product is found to be allowable. Applicant has shifted the burden back to the examiner to show that the two different groups are distinct. The examiner has not met this burden.

Because the examiner has not shown that the groups of claims are distinct, the restriction requirement is not proper. Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED.**

It is noted that applicants have filed a response to the office action mailed August 1, 2005 and that the examiner has prepared a new non-final office action which was mailed on January 26, 2006. In view of this decision, the application is being forwarded to the examiner to prepare a new non-final office action which includes examination and action on the merits of all the claims previously withdrawn from consideration due to the restriction requirement.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BIRCH STEWART KOLASCH & BIRCH
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INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of :
Adler, et al. :
Application No. 10/724,223 :
Filed: December 1, 2003 :
Docket No.: 67824.407222 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed April 9, 2008, 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 Notice of Non-Compliant Amendment (Notice) mailed July 27, 2007. The Notice set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed March 17, 2008.

Petitioners assert non-receipt of the Notice.

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office

action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). The arguments and supporting documentation presented have been carefully considered. Moreover, petitioners have included a copy of a docket report covering the time period that a response would have been due had it been received. In view thereof, the evidence presented support the conclusion that the non-final Office action was not received. *See*, MPEP 711.03(c).

The petition and supporting documentation have been carefully reviewed and support a conclusion that the Notice, while properly mailed by the USPTO, was not received applicants.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Group Art Unit 1649 for re-mailing of the Notice. The due date for reply will be set in the newly mailed non-final Office action.

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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624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Forster et al.	:	
Application No. 10/724,237	:	DECISION ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. FORSTER1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1794 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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STEVEN HOROWITZ
COUNSELOR AT LAW
SUITE 700
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NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Theodore D. Lanier	:	
Application No. 10/724,241	:	DECISION ON PETITION
Filed: November 28, 2003	:	TO MAKE SPECIAL UNDER
For: ALL-WHEEL DRIVE ELECTRIC VEHICLE	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 2003,[1] to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition includes a copy of a driver's license and a declaration by Theodore D. Lanier attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3618 to await a reply to the non-final Office mailed February 28, 2006.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

---

[1] The instant petition was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in replying to the instant petition and inconvenience caused petitioner by this delay.

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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CORNING CABLE SYSTEMS LLC
PO BOX 489
HICKORY NC 28603

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

In re Application of Terry L. Cooke et al Application No. 10/724,244 Filed: November 26, 2003 Attorney Docket No. HE0210	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 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 and corrected Fig. 7(seven); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed January 4, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2839 for the examiner to consider the amendment submitted with the petition and corrected Fig 7(seven), on September 7, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060906

DATE : September 6, 2006

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction on Patent No.: 7,022,262

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: Jerry Lorengo **Art Unit** 1755

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.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Palese et al.	:	
Application No. 10/724,273	:	ON APPLICATION FOR
Filed: November 24, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 6923-119	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed December 8, 2008. Applicant requests that the determination of patent term adjustment be corrected from five hundred sixty-seven (567) days to, at minimum, one thousand two hundred twenty-nine (1229) days. Referring to Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008), applicant requests this correction 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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for

[1] For the purposes of this request, applicant assumes that the patent will issue on the above-identified application on April 7, 2009.

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
~~Senior~~ Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

5/26/09

Patent No. :7498424
Inventor(s) :Robert O'Neil
Issued : 3/3/2009
Title : IMAGE FORMING APPARATUS AND METHOD FOR HUMIDIFYING IN HEAD CAP
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals col.62, line 6 is printed in accordance with the record and please show evidence of an amendment or document. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Jones Day
222 East 41st Street
NEW YORK, NetEW YORK 10017-6702

HR/MD

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

APR 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,498,424	:	DECISION ON REQUEST
Palese et al.	:	FOR
Issue Date: March 3, 2009	:	RECONSIDERATION OF
Application No. 10/724,273	:	PATENT TERM ADJUSTMENT
Filed: November 24, 2003	:	and
Atty Docket No. 6923-119	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 4, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-four (1194) 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 ninety-four (1194) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on December 8, 2008. 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 one hundred ninety-four (1194)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,498,424 B2

DATED : **March 3, 2009** **DRAFT**

INVENTOR(S) : Palese 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 739 days

Delete the phrase "by 739 days" and insert – by 1194 days--

COCX

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-4-08

Paper No.: _____

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction on Patent No.: 7276589

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:

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1643
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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JUN 18 2004

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JUN 18 2004

OFFICE OF THE DIRECTOR
TC 3600

DOROTHY S. MORSE, ESQ.
515 Park Drive NW
Bradenton, FL 34209-1847

In re application of
Samuel Barran Tafoya et al.
Application No. 10/724,289
Filed: November 27, 2003
For: REUSABLE BOMB DIFUSER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on November 27, 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 copy of the driver's license for Mr. Tafoya indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 6/02/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FAY KAPLUN & MARCIN, LLP
150 BROAWAY, SUITE 702
NEW YORK, NY 10038

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Raymond Robert et al	:	
Application No. 10/724,294	:	DECISION ON PETITION
Filed: November 28, 2003	:	TO WITHDRAW
Attorney Docket No. 40128/00801	:	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 9, 2010.

The request is **NOT APPROVED**.

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, change of employment, do not appear to meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

02/17/04

Weingarten, Schurgin, Gagnebin & Lebovivi LLP
Ten Post Office Square

Boston, MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/724296 received on 12/22/03 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, at 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

No PPD

OIPE JC150 DEC 2 2 2003 PATENT & TRADEMARK OFFICE

Rev 09/03

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application	:	Nitin Agarwal et al.
Application No.	:	10/724,296
Filed	:	November 28, 2003
For	:	LOW-JITTER CLOCK DISTRIBUTION CIRCUIT
Attorney's Docket	:	TI-37272 (UNITI-181XX)

TC Art Unit:

* *

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 PGPUB DRAWINGS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on Dec. 18, 2003.

By: James F. Thompson
James F. Thompson
Registration No. 36,699
Attorney for Applicants

* *

PETITION UNDER 37 C.F.R. §1.182
RE: PUBLICATION OF FORMAL DRAWINGS

MAIL STOP PGPUB DRAWINGS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The enclosed formal drawings are being submitted within one month of the filing date or within 14 months of the earliest claimed priority of the above-identified application. Therefore, Applicant hereby requests that these formal drawings be included in the publication of the above-identified application.

12/22/2003 JADDO1 00000057 10724296
01 FC:8029 130.00 OP

HEINGARTEN, SCHURGIN,
NAGNEBIN & LEBOVICI LLP
TEL (617) 542-2290
FAX (617) 451-0313

Application No.: 10/724,296
Filed: November 28, 2003
TC Art Unit:
Confirmation No.:

Enclosed is a check in the amount of $130.00 as set forth as the fee required for a petition under 1.17(h).

Triplicate copies of this transmittal letter are enclosed.

Respectfully submitted,

NITIN AGARWAL ET AL.

By: James F. Thompson

James F. Thompson
Registration No. 36,699
Attorney for Applicants

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, Massachusetts 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

JFT/raw
Enclosure
299773-1

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL (617) 542-2290
FAX (617) 451-0313

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAR 14 2005

In re Application of Thomas Haas et al Serial No. 10/724,300 Filed: November 26, 2003 For: PROCES FOR THE EPOXIDATION OF OLEFINS	: : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Cecilia Tsang at (703) 308-0254.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Bruce M. Kisliuk
Director, Technology Center 1600

SMITH, GAMBRELL & RUSSELL, LLP
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/22/09

TO SPE OF : ART UNIT **2624 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/724,302** Patent No.: **7,283,650**

Attn: Nancy Bitar

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

VIKKRAM BALI — 2624

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/724,313	11/28/2003	3679	1312	51611/MEG/M521	14	29	1

CONFIRMATION NO. 5260

CORRECTED FILING RECEIPT

OC000000013393939

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Date Mailed: 07/30/2004

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)

Georg Scheck, Weitramsdorf, GERMANY;
Peter Schumann, Unlersiemau, GERMANY;

Domestic Priority data as claimed by applicant

This application is a CON of 09/592,485 06/08/2000 ABN

Foreign Applications

GERMANY 199 26 994.7 06/08/1999

If Required, Foreign Filing License Granted: 06/01/2004

Projected Publication Date: 09/09/2004

Non-Publication Request: No

Early Publication Request: No

Title

Displacement device

Preliminary Class

297

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAIL

APR 23 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES CA 90069

In re Application of:
KATZ, RONALD A.
Application Serial No.: 10/724,319
Filed: November 26, 2003
For: **COMMERCIAL PRODUCT ROUTING SYSTEM WITH VIDEO VENDING CAPABILITY**

DECISION
ON PETITION

This is a decision on the petition to make special, filed on April 3, 2010 under MPEP § 707.02.

Petitioner requests that the application be considered special.

MPEP § 708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP §§ 707.02 and 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy. A petition to effect such status is not necessary. Any request for interview should be initiated via the Examiner.

Accordingly, the petition is **DISMISSED AS MOOT.**

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Daniel Collin Jenkins et al. :
Application No. 10/724,323 : ON PETITION
Filed: November 26, 2003 :
Attorney Docket No. 157622-0023 :

This is a decision on the petition filed March 6, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned February 22, 2006 for failure to timely pay the issue fee on or before February 21, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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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Suite 315
9220 Sunset Boulevard
Los Angeles, CA 90069

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OFFICE OF PETITIONS

In re Application of :
Ronald A. Katz :
Application No. 10/724,330 :
Filed: November 26, 2003 :
Attorney Docket No. 6046-101N8 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on February 14, 2006, to withdraw the holding of abandonment.

On June 2, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. On December 9, 2005 (certificate of mailing dated December 2, 2005), petitioner obtained an extension of time for response within the third month. On December 19, 2005, the Office mailed a Notice of Abandonment.

Petitioner asserted that a proper response was filed timely. In support of the petition, petitioner submitted a copy of a returned, date-stamped postcard receipt,[1] acknowledging receipt of a Transmittal Letter (1 pg.), Petition for Extension of Time (1 pg.) and an "Amendment and Response to Office Action" (11 pgs.) in the USPTO on December 9, 2005. The copy of the Transmittal Letter, submitted with the original response, contained a certificate of mailing dated December 2, 2005. Copies of the documents are included with this petition.

The Office located the original "Amendment and Response to Office Action," Petition for Extension of Time, and Transmittal Letter, containing a certificate of mailing dated December 2, 2005. Additionally, the USPTO finance records indicated that the Office charged petitioner's Deposit Account for a $510.00 extension of time fee on December 9, 2005.

[1] Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

After reviewing the record and the papers submitted on petition, the response is considered timely filed on December 2, 2005.[2] Accordingly, the petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted on December 2, 2005.

The matter is being referred to the Technology Center Art Unit 2643 for a review of the amendment submitted on December 9, 2005 (certificate of mailing dated December 2, 2005).

Telephone inquiries specifically concerning this decision should 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 Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[2] See 37 CFR 1.8(a).

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OFFICE OF PETITIONS

REENA KUYPER ESQ
BYARD NILSSON ESQ
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES CA 90069

In re Application of	:
Ronald A. Katz	: DECISION GRANTING PETITION
Application No. 10/724,330	: AND WITHDRAWING THE
Filed: November 26, 2003	: HOLDING OF ABANDONMENT
Attorney Docket No. 6046-101N8	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 12, 2007.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a response to the final Office action mailed June 1, 2006. This Office action set a shortened statutory period of three (3) months. A Notice of Abandonment was mailed on January 4, 2007.

A review of the application file reveals the presence of an RCE, filed December 20, 2006. The RCE was made timely by including a three month extension of time, and by including a Certificate of Mailing dated December 1, 2006.

In view of the above, the holding of abandonment is withdrawn.

As the Office erroneously charged petition the fee for the RCE and three month extension of time on January 12, 2007 (they were previously charged on December 20, 2006), the $395 RCE fee and $510 extension of time fee have been refunded to Deposit Account No. 50-1636.

The matter is being forwarded to Group Art Unit 2614 for consideration of the RCE filed December 20, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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BYARD NILSSON, ESQ.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES CA 90069

MAIL

APR 23 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
KATZ, RONALD A.
Application Serial No.: 10/724,330
Filed: November 26, 2003
For: **COMMERCIAL PRODUCT ROUTING SYSTEM WITH VIDEO VENDING CAPABILITY**

DECISION
ON PETITION

This is a decision on the petition to make special, filed on April 3, 2010 under MPEP § 707.02.

Petitioner requests that the application be considered special.

MPEP § 708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP §§ 707.02 and 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy. A petition to effect such status is not necessary. Any request for interview should be initiated via the Examiner.

Accordingly, the petition is **DISMISSED AS MOOT.**

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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RALPH A. DOWELL
DOWELL & DOWELL P.C.
2111 EISENHOWWER AVE., SUITE 406
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Andrzej Barwicz et al	:	
Application No. 10/724,356	:	DECISION ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. 14540	:	

This is a decision on the petition under 37 CFR 1.182, filed, August 8, 2007, to correct the spelling of the first name inventor from "Andrzcj Barwicz" to – Andrzej Barwicz --.

The petition is **GRANTED**.

Office records have been updated to reflect the first inventor's correct name. A corrected Filing Receipt, which reflects the correct spelling of the first inventor's name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/724,356	12/01/2003	2877	1858	14540	47	5

CONFIRMATION NO. 8051

CORRECTED FILING RECEIPT

293
Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria, VA 22314

OC000000026954145

Date Mailed: 11/28/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Andrzej Barwicz, Trois-Rivieres, CANADA;
Roman Z. Morawski, Warsaw, POLAND;
Andrzej Miekina, Warsaw, POLAND;
Sebastien Lesueur, Montreal, CANADA;
Tomasz Oleszczak, Trois-Rivieres, CANADA;

Power of Attorney:
Ralph Dowell--26868
John Orange--29725
Wendy Slade--53604

Domestic Priority data as claimed by applicant

Foreign Applications
CANADA 2,413,218 11/29/2002

If Required, Foreign Filing License Granted: 03/11/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/724,356**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

FLASH OPTICAL PERFORMANCE MONITOR

Preliminary Class

356

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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SUITE 300
WASHINGTON, DC 20001-5303

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OFFICE OF PETITIONS

In re Application of

Ozaki, et al.

Application No. 10/724,359

Filed: December 1, 2003

Attorney Docket No. OZAK19

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2006, which will be treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on October 12, 2005, after it was believed that no response was received to the non-final Office action mailed July 11, 2005. The non-final Office action allowed a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on January 18, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was timely filed on January 11, 2006, with a request for an extension of time within the third month. A review of the application file revealed that an amendment responsive to the non-final Office action was filed on January 11, 2006, and matched with the subject application. It appears that the application was improperly held abandoned as a response to the non-final Office action was filed prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 1700, GAU 1731, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/724,366	12/01/2003	1772	1190	032126		5	1

CONFIRMATION NO. 8101

CORRECTED FILING RECEIPT

OC000000013269813

38834
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Date Mailed: 07/19/2004

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)

Iwao Saikatsu, Oura-gun, JAPAN;
Kunio Shibata, Oura-gun, JAPAN;
Tsuneaki Asahi, Oura-gun, JAPAN;
Motoki Hiraoka, Toyota-shi, JAPAN;
Yukio Shimokawa, Toyota-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-351988 12/04/2002

If Required, Foreign Filing License Granted: 03/02/2004

Projected Publication Date: 09/09/2004

Non-Publication Request: No

Early Publication Request: No

Title

Non-asbestos-based friction materials

Preliminary Class

428

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

In re Application of

Pinsky, et al.

Application No. 10/724,367

Filed: December 1, 2003

Attorney Docket No. 9029-7 MIS:jb

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed April 21, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on July 28, 2005, after it was believed that no response was received to the Office action mailed June 27, 2005. The action allowed a period for reply of one-month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on March 22, 2006, indicating that a reply to Office action of June 27, 2005, was not received.

The instant petition maintains that an election responsive to the Office action was transmitted via facsimile on July 26, 2005. A copy of the election containing a certificate of facsimile transmission dated July 26, 2005, and a copy of the transmission sheet noting three pages as having been successfully transmitted to the USPTO on July 26, 2005, accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 2800 GAU 2862, for further processing including the consideration of the copy of the election filed April 21, 2006, which will be noted as having been timely received.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ALLAN P. BAKKE
3220 COUNTY VIEW CT SW
ROCHESTER, MN 55902

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OFFICE OF PETITIONS

In re Application of	:	
Allan P. Bakke	:	DECISION ON PETITION
Application No. 10/724,371	:	TO MAKE SPECIAL
Filed: November 29, 2003	:	37 CFR 1.102(c)
For: Disposable Outlet Patient Flow Line Employing Active Warming And Passive Insulation To Provide Normothermic Fluid At Very Low Flow Rates For In-Line Blood Warmers	:	

This is a decision on the petition under 37 CFR §1.102(c), filed February 25, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special asset forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant 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 by Allan P. Bakke attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3763 for expedited prosecution.

Denise Pothier for
Petitions Examiner
Office of Petitions

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Neil Steinberg
Steinberg & Whitt, LLP
Suite 1150
2665 Marine Way
Mountain View CA 94043

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of
Fazan et al. :
Application No. 10/724,377 :
Patent: 6,925,006 : NOTICE
Filed: November 28, 2003 :
Issued: August 2, 2005 :
Attorney Docket Number: 211.001-D2- :
US :

This is a notice regarding your request filed on January 3, 2006.

The change in status to a large entity has been entered and made of record.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 06/28/2010

Applicant	: Mark M. Leather	: DECISION ON REQUEST FOR
Patent Number	: 7633506	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/724,384	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **919** 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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900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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SEP 14 2006

OFFICE OF PETITIONS

In re Patent No. 6,796,570	:	
Issue Date: September 28, 2004	:	
Application No. 10/724,388	:	ON PETITION
Filed: November 18, 2003	:	
Patentee(s): Hung-Shen Chang	:	

This is a decision on the petition under 37 CFR 1.182, filed by facsimile transmission on March 23, 2006 and supplemented on May 18, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition under 37 CFR 1.181 is **DISMISSED**.

Petitioner states that the applicant never received the Letters Patent. Petitioner further states that, "the applicant does not maintain a docket or postal record."

A review of the record indicates no irregularity in the mailing of the Letters Patent, and, in the absence of any irregularity there is a strong presumption that the Letters Patent was properly mailed to the address of record at that time; i.e., Hung-Shen Chang, 58 Ma Yuan West Street, Taichung, Taiwan.

This presumption may be overcome by showing that the Letters Patent was not in fact received. As inventors are acting pro se, the Office understands that they may not keep a formal docket record system for their correspondence. Nevertheless, the inventor must provide some sort of showing explaining the manner in which he receives mail from the USPTO, maintain files for patent matters, and how he treats mail received for such patent matters. Additionally, the inventor should provide evidence that he received mail at the 58 Ma Yuan West Street, Taichung, Taiwan, address around the period that the Letters Patent would have arrived. In this regard, the inventor should include any available documentary evidence of mail received, covering a reasonable period after September 28, 2004, to demonstrate nonreceipt of the Letters Patent. Additionally, the inventor must include a statement from any other person at the mailing address at the time, who would have had access to the inventor's mail and who would have personal knowledge of the nonreceipt of mail from the USPTO around the period the Letters Patent was mailed. Further, a statement should be provided that a search of the mailing residence was conducted but that the Letters Patent was not found. Lastly, the inventor must state that the 58 Ma Yuan West Street, Taichung, Taiwan, address was a viable address at the time of mailing of the Letters Patent.

If petitioner is unable to provide the required evidence to support a showing of nonreceipt of the Letters Patent, petitioners may wish to consider filing a petitioner under 37 CFR 1.182 (no showing required for nonreceipt), requesting issuance of a duplicate Letters Patent and submit the required petition fee of $400.

The Power of Attorney filed on March 23, 2006 has been accepted and made 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Patent No. 6,796,570	:	
Issue Date: September 28, 2004	:	
Application No. 10/724,388	:	ON PETITION
Filed: November 18, 2003	:	
Attorney Docket No. PUSA030449	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed September 19, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been charged to petitioner's deposit account.

A copy of this decision is being forwarded to Publishing Division for issuance of the duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext 139.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8th Floor, Room C-32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUITE 630
LOS ANGELES CA 90069

MAIL

APR 23 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
KATZ, RONALD A.
Application Serial No.: 10/724,406
Filed: November 26, 2003
For: **COMMERCIAL PRODUCT ROUTING SYSTEM WITH VIDEO VENDING CAPABILITY**

DECISION
ON PETITION

This is a decision on the petition to make special, filed on April 3, 2010 under MPEP § 707.02.

Petitioner requests that the application be considered special.

MPEP § 708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP §§ 707.02 and 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy. A petition to effect such status is not necessary. Any request for interview should be initiated via the Examiner.

Accordingly, the petition is **DISMISSED AS MOOT.**

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HUSCH BLACKWELL SANDERS LLP
4801 MAIN STREET
SUITE 1000
KANSAS CITY, MO 64112

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OFFICE OF PETITIONS

In re Application of

PACHE, Eugene P. JR. et al.
Application No. 10/724,408
Filed: November 26, 2003
Attorney Docket No. **16066-10003**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 05, 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 Lara Dickey Lewis on behalf of all attorneys of record who are associated with customer No. 27526. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Eugene Pache at the address indicated below.

There is an outstanding Office action mailed February 12, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **EUGENE PACHE**
ZOEMED, INC.
9729 FIELDCREST DRIVE
OMAHA, NE 68114

UNITED STATES PATENT AND TRADEMARK OFFICE

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AARON R. CLEMENTS/HURLEY,
REYES & GUINN
1805-13TH ST.
LUBBOCK, TX 79401

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OFFICE OF PETITIONS

In re Application of

Naizer, et al.

Application No. 10/724,409

Filed: November 26, 2003

Attorney Docket No. DN2003

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 27, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the statutory period. Accordingly, the application became abandoned on October 28, 2005. A Notice of Abandonment was mailed on March 6, 2006.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner=s duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The "Response to First Action" filed March 19, 2007, is noted.

The application is being forwarded to Technology Center 3600, GAU 3672 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
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

CORNING CABLE SYSTEMS LLC
PO BOX 489
HICKORY NC 28603

In re Application of Jorge R. Serrano et al Application No. 10/724,445 Filed: November 26, 2003 Attorney Docket No. C0034	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of December 1, 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 3671.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GENUS LAW GROUP PLLC
BOX 26219
CRYSTAL CITY STATION
ARLINGTON VA 22215

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OFFICE OF PETITIONS

In re Application of	:	
Samuel Chou	:	
Application No. 10/724,452	:	DECISION ON PETITION
Filed: 28 November, 2003	:	
Atty Docket No. 03234-UPS	:	

This is a decision on the petition filed on 2 December, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 September, 2005, for failure to timely submit the issue and publication fees as

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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 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)).

required by the Notice of Allowance and Fee(s) Due mailed on 15 June, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 4 November, 2005.

Receipt of the issue and publication fees is acknowledged.

The address in the petition is different than the correspondence address. A copy of this decision is being forwarded to the address listed in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

cc: LOWE, HAUPTMAN & BERNER, LLP
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA VA 22314