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PRESTON GATES & ELLIS LLP
ATTN: C. RACHAL WINGER
925 FOURTH AVE
SUITE 9200
SEATTLE WA 98104-1158

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
JAMES C. PEACOCK, III	:	
Application No. 10/724,453	:	DECISION ON PETITION
Filed: November 28, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 51298-00007	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on March 28, 2005 [1], to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

> (A) That small entity status has been established or include a statement establishing small entity status;
>
> (B) That the subject of the patent application is a major asset of the small entity; and
>
> (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

---

[1] There appears to be a discrepancy in the three-page petition filed on March 28, 2005. The first two pages reference the present application serial number 10/724,453, while page 3 reference an entirely different serial number and inventor name. This petition is being treated as belonging in its entirety to the instant application 10/724,453.

To be granted special status, the application must be related to the field of Biotechnology.

The instant petition fails to meet the requirements set forth above for special status because the invention is not a biotechnology application, and furthermore it lacks item (C).

U.S. Office of Technology Assessment (1984) defines "biotechnology" broadly as "any technique using organisms and their components to make products, modify plants and animals to carry desired traits, or develop micro-organisms for specific uses."

The present invention is directed to a site-specific delivery system of biologically active agents from medical devices such as a stent to blood vessel walls. As a biomedical device, the invention does not meet the definition of biotechnology, and therefore does not fall within the scope of applications relating to biotechnology.

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

By Mail: Mail Stop PETITION
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P. O. Box 1450
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By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Amelia Au at 571-272-7414.

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 3731 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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Arthur M. Peslak, Esq.
Mandel & Peslak, LLC
80 Scenic Drive, Suite 5
Freehold, NJ 07728

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MAY 19 2008

In re Application of	:	
Michael McGlynn et al.	:	
Application No. 10/724,479	:	DECISION ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. IPS-001	:	

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 is **GRANTED**.

The application became abandoned for failure to timely reply to the Notice of Drawing Inconsistency with Specification mailed on September 28, 2006, which set a period for reply of one (1) Month or Thirty (30) Days, whichever is longer. Accordingly, the application became abandoned on October 29, 2006. A Notice of Abandonment was mailed on November 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 corrected inconsistency of the drawings within the specification, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice mailed September 28, 2006 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 the Office of Data Management for further processing into a patent.

Andrea Smith
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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November 23, 2004

Standley Law Group
495 Metro Place South
Suite 210
Dublin, OH 43017

In re application of
Robert E. Arbogast DECISION ON PETITION
Serial No.: 10/724,526
Filed: November 28, 2003
For: CUSTOM PROSTHETIC LINEAR MANUFACTURING SYSTEMS AND METHOD

This is a decision on the petitions received on October 18, 2004, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed March 8, 2004. Which set a shortened statutory period for reply of two (2) months.

On October 18, 2004, the office received a communication from the attorney of record. Enclosed was a respond to the Notice to File Missing Parts and five months of extension.

The petition is hereby GRANTED.

The application will be completed with the documents received on August 9, 2002 and released to Technology Center 3673.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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JAN 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Robert E.Arbogast, et al. :
Application No. 10/724,526 : ON PETITION
Filed: November 28, 2003 :
Attorney Docket No. OH11717-006 :

This is a corrected decision on the petition under 37 CFR 1.137(b), filed by October 18, 2004, to revive the above-identified application. Accordingly, the decision mailed November 23, 2004, is hereby vacated.

The petition is **GRANTED**.

The application became abandoned on May 9, 2004 for failure to timely respond to a Notice to File Missing Parts mailed March 8, 2004. The notice required an oath or declaration under 37 CFR 1.63, the basic filing fee, additional claim fees, and the surcharge under 37 CFR 1.16(e). On October 18, 2004, the present petition was filed, as well as an executed declaration, basic filing fee, additional claim fees, requisite surcharge and a 5-month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In this case a petition for extension of time had to be filed no later than October 8, 2004 to be effective. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $1,040 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed October 18, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WALTER J. FREYBE
 # 93 - 31406 UPPER MACLURE ROAD
ABBOTSFORD, BC V2T 5L8
CANADA

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Freybe, Walter Johannes	:	
Application No. 10/724,533	:	ON PETITION
Filed: November 28, 2003	:	
Title: PASTEURIZATION OF DELI-SALADS	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 19, 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 Mr. Walter J. Freybe, along with copies of his passport and driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 1761 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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AUG 3 1 2006

OFFICE OF PETITIONS

Leonard Tachner
A Professional Law Corporation
17961 Park Circle, Suite 38-E
Irvine, CA 92614

In re Application of
RANALLI
Application No.: 10/724,551
Filed: November 28, 2003
Attorney Docket No.: RANALLI-3

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on October 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 1, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 2872.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEONARD TACHNER,
A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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MAR 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Eliseo R. Ranalli :
Application No. 10/724,551 : ON PETITION
Filed: November 28, 2003 :
Attorney Docket No. RANALLI-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

A review of PTO records discloses that a decision was mailed to the correspondence address of record on August 31, 2006. Therefore, the present petition is unnecessary. The $770 petition fee and the $405 Request for Continued Examination (RCE) submitted with the petition on October 31, 2007 is being credit to petitioner's deposit account. If petitioner discovers that the Patent and Trademark Office records are incorrect, petitioner should notify the Office immediately to that effect.

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: Jun Y. Lee
3458 Ellicott Center Drive, Suite 101
Ellicott City, MD 21043

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LEONARD TACHNER
A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Eliseo R. Ranalli	:	
Application No. 10/724,551	:	ON PETITION
Filed: November 28, 2003	:	
Attorney Docket No. RANALLI-3	:	

CORRECTED DECISION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 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 July 1, 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 2, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $795 extension of time submitted on January 24, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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 from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The decision mailed March 20, 2008 is hereby vacated as of the mail date of this decision.

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

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

This application is being referred to Technology Center AU 2872 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Jun Y. Lee
3458 Ellicott Center Drive, Suite 101
Ellicott City, MD 21043

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OFFICE OF PETITIONS

LEONARD TACHNER
A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

In re Application of	:	
Andrew A. Kostrzewski et al	:	
Application No. 10/724,552	:	ON PETITION
Filed: November 28, 2003	:	
Attorney Docket No. 100.092/DIV	:	

This is a decision on the petition filed July 29, 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 February 26, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 27, 2007.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/10/2008

TO SPE OF : ART UNIT 2665 (2600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/724,559 Patent No.: 6,954,450

Attn: Chiho Lee

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

***ATTN: Ok to enter changes as requested in COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Miura et al	:	
Application Number: 10/724,577	:	
Patent: 6,933,810	:	
Attorney Docket Number: 025720-00020	:	
Filing Date: December 22, 2005	:	
Issue Date: August 23, 2005	:	DECISION ON PETITION

This is a decision on the petition filed December 22, 2005 under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

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

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULWIDER PATTON LLP
200 OCEANGATE, SUITE 1550
LONG BEACH, CA 90802

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OFFICE OF PETITIONS

In re Application of

Phillip Borunda :

Application No. 10/724,583

: DECISION ON PETITION

Filed: November 28, 2003

:

Attorney Docket No. 214.01-P-USA

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 10, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 10, 2006. A Notice of Abandonment was mailed on December 21, 2006.

The amendment filed September 10, 2007, is noted and made of record.

The Revocation and Appointment in Patent Application, Power of Attorney filed September 10, 2007, is noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3635 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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Jerry W. Wiley
40900 Avenida Estrada
Palm Desert CA 92260

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OFFICE OF PETITIONS

In re Application of
Jerry W. Wiley
Application No. 10/724,597
Filed: December 1, 2003
For: Safety Travel Tailgate With Eagle Eye
Perfect View Mirror

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 13, 2005, to withdraw the holding of abandonment.

The petition is **dismissed**.

This application became abandoned for failure to reply to the nonfinal Office Action mailed on October 19, 2004, which set a three-month shortened statutory period to respond. Accordingly, this application became abandoned on January 20, 2005. A Notice of Abandonment was mailed on June 14, 2005.

Under 37 CFR 1.181:

Petitioner contends that the delay occurred because the examiner did not provide him with copies of relevant patents as he requested in order to prepare his response. The Office notes the USPTO is not obligated to provide paper copies of patents or published applications free of charge to the public. Rather, pursuant to 37 CFR 1.19, any member of the public may submit a request for a copy of a patent or published application in writing with the appropriate fee set forth in 37 CFR 1.19(b) to the Office of Public Records or electronically on the USPTO web site web site (www.uspto.gov). For assistance, the Office of Public Records Customer Service can be contacted at (703) 308-9726 or (800) 972-6382 (8:30 am to 5:00 pm EST).

Additionally, the Office notes that the patents and published application requested by petitioner are available electronically on the USPTO web site (www.uspto.gov). Petitioner may view these documents via the Office's Public Patent Application Information Retrieval (PAIR).

The Office further notes that where an applicant contends that the application **is not in fact abandoned** (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. However, where there is **no dispute** as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

In the present case, petitioner has not established that the application is not in fact abandoned, but rather, is disputing the cause of abandonment. Accordingly, to revive this application, petitioner must file a petition under 37 CFR 1.137 with the appropriate petition fee.

The Office strongly suggests that petitioner file a petition under 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 nonfinal Office action such as an amendment or continuing application.

(2) **The petition fee in the amount of $750.00;**

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

For petitioner's convenience, a form for filing a petition under 37 CFR 1.137(b) is enclosed.

Petitioner may wish to seek the advice of a registered patent attorney or agent to assist him in this matter and in prosecuting this application. Additionally, petitioner may wish to contact the Inventors Assistance Center at 800-786-9199 or 571-272-1000.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64 - Petition For Revival Of An Application For Patent Abandoned Unintentionally

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of
Choe
Application No. 10/724,616
Filed: December 2, 2003
Attorney Docket No. P24344
For: SYSTEM AND METHOD FOR IMPLEMENTING SOLAR CELL

DECISION GRANTING PETITION

This is a decision on the petition entitled, "RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS AND PETITION FOR ACCEPTANCE OF ORIGINALLY FILED APPLICATION," filed September 2, 2004, requesting, in effect, partial withdrawal of the Notice to File Corrected Application Papers (Notice) insofar as it alleges that Figure 3a described in the specification was omitted. The petition will be treated under 37 CFR 1.53(e).

The application was filed on December 2, 2003. On July 2, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 3a described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 3a be accorded a filing date of December 2, 2003 on the basis that 10 sheets of drawing figures, including Figure 3a, were received in the Patent and Trademark Office (PTO) on December 2, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing December 2, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 10 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 10 sheets of drawing figures were filed on December 2, 2003. MPEP 503. A review of the originally filed sheets of drawings reveals that only 9 sheets are present. The page missing corresponds to the page that would contain a "Figure 3a." Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 2, 2003, using the 10 sheets of replacement drawing figures submitted with the instant petition. Office records will be corrected to show that 10 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 9 2007

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No. 10/724633 patent no. 7184030

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: _____

SPE

2629

Art Unit

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

NEIL STEINBERG
STEINBERG & WHITT, LLP
SUITE 1150
2665 MARINE WAY
MOUNTAIN VIEW CA 94043

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SEP 28 2006

OFFICE OF PETITIONS

In re Patent No. 6,930,918 :
Issued: August 16, 2005 :
Application No. 10/724,648 : LETTER
Filed: December 1, 2003 :
Attorney Docket No. 211.001-D3-US:

This is in response to the paper filed January 3, 2006 under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the January 3, 2006 request, status as a Small Entity has been removed and all future fees must be paid at the large entity rate.

Inquiries concerning this matter may be directed to the undersigned at (571)272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Group
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109-2804

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JUN 2 2 2004
OFFICE OF PETITIONS

In re Application of	:	
David Meiri, et al.	:	
Application No. 10/724,669	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. EMS-07001	:	

This is a decision on the petition under 37 CFR 1.182, filed January 9, 2004, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. David Meiri
2. Douglas E. Lecrone
3. Kevin C. Heasley
4. Vadim Longinov
5. Mark J. Halstead
6. Benjamin W. Yoder
7. William P. Thibodeau

EST AVAILABLE COPY

This application is being referred to Technology AU 2171 for prosecution in due course.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220.

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

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Alexandria, VA 22313-1450
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EDWARD P. DUTKIEWICZ
640 DOUGLAS AVENUE
DUNEDIN, FL 34698

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Patricia A. Stark et al	:	
Application No. 10/724,672	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. PD45/02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 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 January 7, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 7, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 3721.

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

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of
Shoichi Ibaraki, et al.
Application No. 10/724,691
Filed: December 2, 2003
Attorney Docket No. 00862.023345

: DECISION ON PETITION

This is a decision on the petition filed May 3, 2004, requesting that the above-identified application be accorded a filing date of July 25, 2003.

The application was deposited on December 2, 2003. However, on March 1, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Non-Provisional Application requiring an executed oath or declaration and stating that, while a filing date had been accorded the application papers, a drawing of Figure 9 described in the specification was omitted from the application.

In response, on May 3, 2004, an executed declaration and the present petition were filed. Petitioner argues that twelve (18) sheets of drawings were included with the application papers deposited on December 2, 2003. As evidence thereof, petitioner submitted a copy of his postcard receipt. Petitioner requests that the application, including a drawing of Figure 9, be accorded a filing date of December 2, 2003. A copy of one sheet of drawing containing Figure 9 was also submitted.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO. See MPEP 503. A review of the postcard receipt reveals that: (1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on December 2, 2003; (2) it specifically identifies the items being filed, including *inter alia* "18 sheets of formal drawing"; and (3) it lacks any annotation of non-receipt of any item denoted on the postcard.

The application papers already considered received in the Office on December 2, 2003, were reviewed along with the missing page of drawing submitted on petition. These papers together constitute the items described on the postcard receipt as "18 sheets of formal drawing". Petitioner has shown that sheet 9/18 containing a drawing of Figure 9 was among the items present in the application on the date of deposit and should be included in the original disclosure.

Accordingly, the petition is **GRANTED**.

No petition fee has been charged to counsel's deposit account, nor is one due.

In view of the above, the petition is GRANTED. The one (l) sheet of drawing containing Figure 9 submitted with the petition will be used for examination purposes.

The application is being returned to Initial Patent Examination Division for:

(1) further processing with a filing date of December 2, 2003, using the declaration filed May 3, 2004; and the application papers filed December 3, 2003 and the one (1) sheet of drawing filed May 3, 2004; and
(2) an indication on the bibliographic data sheet that twelve (18) sheets of drawings were included on filing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.

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

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of
Jean-Paul Accarie et al.
Application No. 10/724,701
Filed: December 2, 2003
Attorney Docket Number: 02997.002501

: DECISION GRANTING PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed May 5, 2009, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to an Final Office Action mailed April 30, 2008 which set a three month period for response. No response having been filed or extension of time requested, this application became abandoned July 31, 2008. Accordingly, a Notice of Abandonment was mailed December 22, 2008.

The file record discloses that the Office Action was mailed April 30, 2008 to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Office Action was not received and that the Office Action was returned to the USPTO. Petitioner has also submitted copies of their docket to substantiate their claim.

A review of the USPTO files reveal that the Office Action was in fact returned to the USPTO by the United States Postal Service on May 1, 2008 and no apparent reason can be determined since it appears that the address of record was placed on the correspondence. In view of the facts set forth in the petition, it is concluded that the Office Action was never received.

Since the response to the Office Action has been provided with the instant petition, this matter is being referred to Technology Center 2445 for consideration and treatment of the amendment filed May 5, 2009.

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

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FEB 0 6 2008

OFFICE OF PETITIONS

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

In re Application of	:	
Tsukada, et al.	:	
Application No. 10/724,706	:	DECISION ON PETITION
Filed: 2 December, 2003	:	
Attorney Docket No. 1982-0208P	:	

This is a decision on the petition filed under 37 C.F.R. §1.78(a)(3), on 8 January, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application (Application No. 09/953,958 filed 18 September, 2001) set forth by amendment filed with the petition. It is noted, however, that the petition and the amendment submitted also seeks a late claim to priority to a foreign-filed application, which claim properly is made under 37 C.F.R. §1.55(c) to Japan Application No. P2000-281809, filed on 18 September, 2000 (in addition to the previously claimed priority to Japan Application No. P2002-351466, filed on 3 December, 2002 (as set forth in the originally filed oath/declaration and the supplemental Application Data Sheet)). The petition herein is so construed.

The petition is **DISMISSED**.

PETITION UNDER 37 C.F.R. §1.78((a)(3)

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

(1) the reference required by 35 U.S.C. §120 and 37 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.

The petition is deficient in items (1) and (3), which are discussed below since the petition under 37 C.F.R. §1.55(c) is deficient for similar issues.

PETITION UNDER 37 C.F.R. §1.55(c)

A petition under 37 C.F.R. §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 C.F.R. §1.63(c)(2)) or in an Application Data Sheet (37 C.F.R. §1.76(b)(6);

(3) the surcharge as set forth in 37 C.F.R. §1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 C.F.R. §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.

This application was filed on 2 December, 2003, which is after November 29, 2000 and within 12 months of 2 December, 2002 (the filing date of the foreign application to which benefit is now being claimed). On 8 January, 2007, an Application Data Sheet was submitted, apparently in lieu of executed oath/declaration (37 C.F.R. § 1.55(d)(1)(ii)), which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee authorization was received with the petition.

This petition is deficient in items (2) and (4).

DISCUSSION

The regulations at 37 CFR § 1.55(c) and §1.78(c) require a statement that the entire delay between the date the claim was due under 37 CFR § 1.55(a)(1) and §1.78 and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, on renewed petition (if submitted) Petitioner should track the language of the regulation.

The petition fails to comply with the requirement for a signed oath/declaration or a signed supplemental ADS. In this regard, 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 C.F.R. §1.76(b)(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 C.F.R. §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.

In view of the above, compliance with 37 C.F.R. §1.63(c)(2) or 37 C.F.R. §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 C.F.R. §1.55(c)."

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

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

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

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

Any inquiries concerning this decision may be directed to John Gillon, Attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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

In re Application of	:	
Tsukada, et al.	:	
Application No. 10/724,706	:	DECISION ON PETITION
Filed: 2 December, 2003	:	
Attorney Docket No. 1982-0208P	:	

This is a decision on the petition (renewed) filed under 37 C.F.R. §1.55(c) and 37 C.F.R. §1.78(a)(3), on 7 April, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to prior-filed nonprovisional application (Application No. 09/953,958 filed 18 September, 2001), and under 35 U.S.C. §119(a)-(d) for the benefit of priority to a prior-filed foreign applications, Japanese Application No. P2000-281809, filed on 18 September, 2000 (in addition to the previously claimed priority to Japanese Application No. P2002-351466, filed on 3 December, 2002, as set forth in the subsequently filed declaration and the signed supplemental Application Data Sheet (ADS)).

As to the benefit claim under 37 C.F.R. § 1.78(a)(3):

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 and 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.

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 C.F.R. §1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 C.F.R. § 1.55(c):

A petition under 37 C.F.R. §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 C.F.R. §1.63(c)(2)) or in an Application Data Sheet (37 C.F.R. §1.76(b)(6);
(3) the surcharge as set forth in 37 C.F.R. §1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 C.F.R. §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 C.F.R. §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 C.F.R. 1.78(a)(3) and 37 C.F.R. 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 C.F.R. 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 C.F.R. 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 nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to John Gillon, Attorney, at (571) 272-3214. 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 AU 1795 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/724,706	12/02/2003	1795	770	1982-0208P	18	1

CONFIRMATION NO. 1979

CORRECTED FILING RECEIPT

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000031683013

Date Mailed: 09/15/2008

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)

Yoshihisa Tsukada, Kanagawa, JAPAN;
Hajime Nakagawa, Kanagawa, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number 2292

Domestic Priority data as claimed by applicant

This application is a CIP of 09/953,958 09/18/2001 PAT 7,189,500

Foreign Applications

JAPAN 2002-351466 12/03/2002
JAPAN P.2000-281809 09/18/2000

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 10/724,706**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Photothermographic material

Preliminary Class

430

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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Terry W. Kramer, Esq.
Kramer & Amado, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 05/19/2010

Applicant	: Cheng-Yin Lee	: DECISION ON REQUEST FOR
Patent Number	: 7619966	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/724,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1561** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 21 2004

In re Application of	:	
Robert H. Murray et al.	:	
Serial No. 10/724,795	:	DECISION ON PETITION
Filed: December 1, 2003	:	TO MAKE SPECIAL
For: SAFE TOY BALLOON CLOSURE	:	
AND SEALING DEVICE AND	:	
ASSEMBLIES USING SAME	:	

Applicant's petition, filed December 1, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross

E. Rollins-Cross, Director
Technology Center 3700

Robert H. Murray
52 Manor Hill Drive
Fairport, NY 14450

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 27 2004

Robert H. Murray,
52 Manor Hill Drive
Fairport NY 14450

In re Application of	:	
Robert H. Murray	:	
Serial No.: 10/724,802	:	DECISION ON PETITION
Filed: December 1, 2003	:	
For: Safer Toy Balloons and Methods of	:	
Imparting Unpalatable taste to Same	:	

This is in response to applicants' petition filed August 16, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARRINGTON & SMITH, PC
4 RESEARCH DRIVE
SHELTON CT 06484-6212

COPY MAILED

JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Wisniewski et al.	:	
Application No. 10/724,845	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. YOR920030535US1	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed October 29, 2007, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Mary WISNIEWSKI to Mary LANZEROTTI.

Petitioner submitted $130.00 towards payment of the $400.00 petition fee. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

This matter is being directed to Technology Center 2100 for further examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to Technology Center 2100.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/724,845	12/01/2003	2151	1316	YOR920030535US1	36	6

CONFIRMATION NO. 2172

CORRECTED FILING RECEIPT

29683
HARRINGTON & SMITH, PC
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

OC000000027994160

Date Mailed: 01/30/2008

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

Applicant(s)

Robert W. Wisniewski, Yorktown Heights, NY;
Mary Yvonne Lanzerotti, Yorktown Heights, NY;

Assignment For Published Patent Application

International Business Machines Corporation

Power of Attorney:

Joseph Redmond Jr--18753
Robert Trepp--25933
John Hoel--26279
Christopher Hughes--26914
Stephen Kaufman--29551
Douglas Cameron--31596
Mark Harrington--31686
Daniel Morris--32053
Harry Smith--32493
Richard Ludwin--33010

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/724,845**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Communication tagging

Preliminary Class

709

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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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

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NOV 16 2007

OFFICE OF PETITIONS

In re Application of
Patricia Ann Piers et al
Application No. 10/724,852
Filed: December 1, 2003
Attorney Docket No. AMOI0010U-US

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 May 13, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

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

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, transmittal letter, or other paper 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). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration, transmittal letter, or other paper 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 present case, the Office noted the claim for priority to the prior-filed application in a paper entitled "Claim for Priority under 35 U.S.C. § 119," filed with the application, as shown by its inclusion on the filing receipt.

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

Any questions concerning this decision on petition may be directed to 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 currently before Technology Center AU 3738 for appropriate action on the reply received to the Office action of February 23, 2007.

Frances Hicks

Frances Hicks
Petition Examiner
Office of Petitions

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OFFICE OF PETITIONS

MARK J. PANDISCIO
PANDISCIO & PANDISCIO, P. C.
470 TOTTEN POND ROAD
WALTHAM MA 02451-1914

In re Application of	:	
Liddicoat et al.	:	
Application No. 10/724,854	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. LIDDICOHN-123	:	

This is a decision on the petition under 37 CFR 1.181, filed July 9, 2009, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for failure to timely reply to the Office action mailed December 22, 2008, which set a shortened statutory period for reply of one (1) months. A reply was due on or before January 22, 2009. A Notice of Abandonment was mailed on June 25, 2009.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on June 25, 2009 of 1. Response (3 pages); 2. Time Extension Petition (5 month) (1 page); 3. Check for $1175.00; and 4. Certificate of Mailing. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of June 22, 2009.

A review of the application file shows that the reply acknowledged as having been received in the USPTO on June 25, 2009 (certificate of mailing date of June 22, 2009) has been located and is in the application file. Further, a review of USPTO financial records indicates receipt of the $1175.00 check on June 25, 2009.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3773 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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SHOEMAKER AND MATTARE, LTD.
10 POST OFFICE ROAD
SUITE 100
SILVER SPRING, MD 20910

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OCT 27 2008

In re Application of	:	
Jerome Witmann	:	
Application No. 10/724,861	:	DECISION ON PETITION
Filed: December 2, 2003	:	TO WITHDRAW
Attorney Docket No. 5378	:	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 28, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Shoemaker & Mattare, LTD. has been revoked by the assignee of the patent application on May 7, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: FENWICK & WEST, LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of
Haitham H. Akkary, et. al.
Application No. 10/724,876
Filed: December 2, 2003
Attorney Docket No. P17875

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 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 Notice of Non-Compliant Amendment (37 CFR 1.121) mailed, November 2, 2007, which set a shortened statutory period for reply of one month or thirty days or whichever is longer. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on December 2, 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) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2183 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
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
10/724,941	12/01/2003	2681	1496	9314-50	6	46	6

CONFIRMATION NO. 3269

CORRECTED FILING RECEIPT

OC000000012312950

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

Date Mailed: 04/08/2004

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

Applicant(s)

Karin Spalink, Durham, NC;
James B. Cunningham, Raleigh, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/02/2004

Projected Publication Date: 06/02/2005

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus, methods and computer program products providing menu expansion and organization functions

Preliminary Class

455

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of:
SPALINK, Karin
Application No.: 10/724,941
Filed: December 1, 2003
Attorney Docket No.: 9314-50

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Jordi Albornoz	: DECISION ON REQUEST FOR
Patent Number	: 7660846	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/724,969	: 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 **1335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 082604

ALAN D. KAMRATH
RIDER BENNETT, LLP
333 SOUTH SEVENTH STREET, SUITE 2000
MINNEAPOLIS, MN 55402

OCT 1 2004

In re Application of:	:	
KEVIN WADE HAMPTON	:	
Serial No.: 10/724,982	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 30, 2003	:	FROM RECORD
Attorney Docket No.: **13312/112**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 21, 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 Hans Sun, 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 Paul E. Franz, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

cc: PAUL E. FRANZ
NORTH POINT, 901 LAKESIDE AVENUE
CLEVELAND, OH 44114-1190

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

Alan D. Kamrath
Rider Bennett, LLP
Suite 2000
333 South Seventh Street
Minneapolis, MN 55402

MAIL

JAN 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:	:	
Wayne Theel	:	
Application No. 10/724,983	:	DECISION ON REQUEST TO
Filed: November 30, 2003	:	WITHDRAW FROM RECORD
For: OPTIMIZED MRAM CURRENT SOURCES	:	
	:	

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on June 21, 2004.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request are withdrawn.

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

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

cc: Paul E. Franz
North Point 901 Lakeside Avenue
Cleveland, Ohio 44114-1190

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Paper No. 092104

OCT - 5 2004

Alan D. Kamrath
Rider Bennett, LLP
Suite 2000
333 S. Seventh Street
Minneapolis, MN 55402

In re Application of:	:	
Theel	:	
Serial No.: 10/724,984	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: November 30, 2003	:	
Attorney Docket No.: **13312/116**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 21, 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 Hans Sun, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**. There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Paul E. Franz, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

cc: Paul E. Franz
North Point
901 Lakeside Ave.
Cleveland, OH 44114-1190

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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June 15, 2005

Jones Day
North Point
901 Lakeside Avenue
Cleveland OH 44114

In re Application of: WAYNE THEEL Serial No.: 10/724985 Filed: November 30, 2003 For: METHOD TO EQUALIZE WORD CURRENT CIRCUITRY	: : : : :	DECISION *SUA SPONTE* VACATING OFFICE ACTION

This is a decision, *sua sponte*, vacating the Requirement for Restriction/Election mailed June 1, 2005 in the above-identified application.

A Requirement for Restriction/Election was mailed on June 1, 2005, setting a one-month shortened statutory period for filing a reply thereto. The Office action is not intended for the instant application and was issued in error.

Although no petition or request has been filed, the Office action is hereby vacated. No reply from the applicant is necessary at this time. Inconvenience to the applicant is regretted.

The application file is being returned to the examiner of record where it awaits examination in its turn.

Any inquiry regarding this decision should be directed to Richard Elms, Supervisory Patent Examiner, at (571) 272-1869.

6/16/05

Richard Elms
SPE, Art Unit 2824

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Alan D. Kamrath
Rider Bennett, LLP
Suite 2000
333 South Seventh Street
Minneapolis MN 55402

MAIL

OCT 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Wayne Theel
Application No. 10/724,986
Filed: November 30, 2003
For: APPARATUS TO IMPROVE STABILITY OF AN MRAM OVER PROCESS AND OPERATIONAL VARIATIONS

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 June 21, 2004.

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

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

All attorneys/agents listed in the request 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Paul E. Franz
North Point, 901 Lakeside Avenue
Cleveland Ohio, 44114-1190

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Paper No. 121604

Hans Sun
Rider Bennett Egan & Arundel, LLP
333 South Seventh Street, Suite 2000
Minneapolis, MN 55402

In re Application of:	:	
Wayne Theel	:	
Serial No.: 10/724,987	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: November 30, 2003	:	
Attorney Docket No.: **13312/122**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 21, 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 Hans Sun, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Paul E. Franz, at the below address, until otherwise notified by applicant.

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

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

HHP/nmc

cc: Paul E. Franz
North Point, 901 Lakeside Avenue
Cleveland OH 44114-1190

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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APR 25 2008

OFFICE OF PETITIONS

In re Application of Enas et al. Application No. 10/725015 Filed: 12/02/2003 Attorney Docket No. 1530.0610001/EJH/UWJ	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on March 10, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The $400 fee for the petition under 37 CFR 1.182 has been received.

This application is being referred to the Office of Data Management to await receipt of the issue and publication fees.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3231.

D. Wood
Douglas I. Wood
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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/725,015	12/02/2003	1635	763	1530.0610001/EJH/UWJ	27	2

CONFIRMATION NO. 3181

CORRECTED FILING RECEIPT

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC000000029578659

Date Mailed: 04/24/2008

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

Applicant(s)

Joel Enas, Fallbrook, CA;
Andrew Geall, Del Mar, CA;

Assignment For Published Patent Application

Vical Incorporated.

Power of Attorney: The patent practitioners associated with Customer Number 26111

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/435,303 12/23/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/725,015**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHOD FOR PRODUCING STERILE POLYNUCLEOTIDE BASED MEDICAMENTS

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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Paper No: __

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of
Zoller et al. :
Application No. 10/725,037 : DECISION ON PETITION
Filing Date: 2 December, 2003
Attorney Docket No. 100337.54074D4 :

This is a decision on the petition filed on 12 October, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 2 December, 2003, for Fig. 10B as described in the specification.

The petition is **DISMISSED**.

BACKGROUND

This nonprovisional application was deposited on 2 December, 2003.

On 9 August, 2004, the Office mailed a "Notice to File Missing Parts in a Nonprovisional Application" (the 9 August Notice), which included a Notice of an omitted item, and indicated that, while a filing date had been granted, it appeared that Fig. 10B as described in the specification was omitted from the application.

The 9 August Notice informed Petitioner of three alternative responses to the Notice: (a) to contend that the materials had been submitted, providing evidence thereof and a copy of the materials; (b) to submit the omitted materials and accept the date of submission as the date of the application; or (c) to ignore the 9 August Notice and accept the application as filed.

Petitioner filed the instant petition (with fee) on 12 October, 2004, with, *inter alia*, a statement of events indicating that Fig. 10B was indeed deposited on filing, and that it was but one of several

panels (*i.e.*, A - L) on the same sheet of drawings heretofore identified as Fig. 10 (" . . . [e]ach of these panels are (sic) clearly identified and described at paragraph 0263 of the as-filed specification. * * * 12 panels *should* have been labeled as Panels A through L on the single page Figure 10 . . . ."(emphasis supplied)); and a preliminary amendment accompanied by 15 sheets of drawings. Petitioner apparently submitted no copy of a receipt card date stamped by OIPE upon deposit on 2 December, 2003. And Petitioner submitted an additional single sheet of drawings again labeled only Fig. 10.

Analysis

A search of the official file reveals that on 2 December, 2003, Petitioner deposited the instant application, and the file presently contains fifteen sheets of drawings, to wit:

Fig 1;
Fig. 2;
Figs. 3a, 3b;
Fig. 4;
Figs. 5, 6;
Fig, 7;
Figs. 3c (sic), 8c (sic);
Figs. 8a, 8b;
Figs. 9a, 9B;
Fig. 10;
Figs. 11, 12;
Fig. 13;
Fig. 14;
Fig. 15;
Figs. 16a, 16b

Figure 10 appears to contain 12 panels, which Petitioner contends "should have been labeled as Panels A - L . . . ."

But they were not so labeled by Petitioner before filing..

Now Petitioner seeks entry of the amendment via petition. However, entry–or not–of amendment is the province of the Examiner.

Petitioner has filed her amendment and set forth her reasons and argument in support therefor.

The Examiner shall review, during the examination process, the sufficiency of the corrections made to the "Formal version of Figure 10"–as Petitioner describes it–as it relates to the corrected description submitted in the "Second Preliminary Amendment."

CONCLUSION

The petition is **dismissed**. Because neither the matter herein nor the petition was occasioned by Office error, the petition fee will not be refunded.

This file (Image File Wrapper (IFW) is released to OIPE for further processing consistent with this decision before being forwarded for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Stig **SOERENSEN**, et al.	:	
Application No. 10/725,039	:	DECISION ON PETITION
Filed: December 2, 2003	:	TO WITHDRAW FROM
Attorney Docket No. 40473-0014	:	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 16, 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 Patricia D. Granados on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STIG SOERENSEN**
CHR. WINTERS VEJ 36A
LYNGBY, DENMARK 2800 KGS,

cc: **RONALD J. KAMIS**
BAKER & DANIELS LLP
805 15TH STREET NW, SUITE 700
WASHINGTON, DC 20005

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FEB 02 2010

OFFICE OF PETITIONS

BAKER & DANIELS LLP
300 North Meridian
Suite 2700
Indianapolis IN 46204

In re Application of	:	
Stig Soerensen et al.	:	
Application No. 10/725,039	:	DECISION ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. **GEI-P0001**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 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 March 2, 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 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 one (1) 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 July 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1794 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

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Jacobson Holman PLLC
400 Seventh Street, NW
Suite 600
Washington, DC 20004

In re Application of	:	
QUIN, Bertram Francis Charles	:	DECISION ON
Application No.: 10/725,040	:	
Filing Date: 02 December 2003	:	PETITION
Attorney Docket No.: P69287US1	:	
For: FERTILISER COMPOSITIONS	:	UNDER 37 CFR 1.137(b)

Applicant's petition "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b)," filed in the United States Patent and Trademark Office on 11 March 2004 is **GRANTED**.

BACKGROUND

On 02 December 2003, applicant filed a transmittal letter for a continuation application accompanied by a specification and a preliminary amendment.

On 03 March 2004, the Office mailed Notice to File Missing Parts of Non Provisional Application.

On 11 March 2004, applicant submitted this petition under 37 CFR 1.137(b) accompanied by a post card receipt.

RECEIVED
MAY 7 2004
OIPE/JC115

DISCUSSION

The 11 March 2004 petition to revive was accompanied by a postcard receipt dated 02 December 2003 and a statement that it was a cop of the 02 December 2003 petition. The 11 March 2004 petition is accepted as having been received on 02 December 2003.

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states "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," as required by 37 CFR 1.137(b)(3). The appropriate petition fee has been paid. A proper response

in the form of a continuing application under 35 U.S.C. 111(a) has been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive international application PCT/NZ02/00077 abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/725,040.

This application is being forwarded to the Office of Initial Patent Examination for processing as a regular U.S. application under 35 U.S.C. 111(a).

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

HAND CARRY TO PCT LEGAL
CRYSTAL PLAZA II, 7TH FLOOR

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bertram Francis Charles QUIN

Serial No.: 10/725040 Attn: PCT Legal

Filing Date: December 2, 2003

For: FERTILISER COMPOSITIONS

RECEIVED
11 MAR 2004
Legal Staff
International Division

TRANSMITTAL LETTER FOR RECONSTRUCTING FILE

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

Sir:

A PCT application, PCT/NZ02/00077 filed April 26, 2002 stemming from a New Zealand priority filed May 9, 2001 was not timely perfected and this was unintentional. In order to avert a statutory bar based on publication, an application was filed without priority on November 14, 2003 and this application has been Serial No. 10/712252. Once the facts were determined a PCT continuation application was filed on December 2, 2003, this application is a duplicate of Serial No. 10/712252, and this PCT continuation application has been given Serial No. 10/725040. With this PCT application was contained a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b). Attached hereto is the complete file for Serial No.

05/06/2004 CSHOOT 00000002 061358 10725040
Sale Ref: 00000002 DA#: 061358 10725040
01 FC:1453 1330.00 DA

10/725040 and it will be seen that the Petition for Revival is referred to on the two postcards attached and is contained in the enclosures.

Counsel has received a Notice of Missing Parts both on the duplicate filed Serial No. 10/712252 (extensions of time start April 10, 2004) and on Serial No. 10/725040 (extension of time start May 3, 2004).

In order to determine the status of the Petition counsel called PCT Legal only to find out that the IFW file of Serial No. 10/725040 did <u>not</u> contain the Petition to Revive. That is the reason why copies of these documents are being hand carried to PCT Legal so as to remake your file and request that you urgently act on this Petition to Revive.

Any questions please call the undersigned.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By_____

John C. Holman
Reg. No. 22,769

400 Seventh Street, N.W.
Washington, D.C. 20004-2201
(202) 638-6666
Atty. Docket: P69287US1
Date: March 10, 2004

JCH/dls
Enclosures: Complete file as deposited 12/2/03

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bertram Francis Charles QUIN

International Appln. No.: PCT/NZ02/00077 Attn: Office of Petitions

International Filing Date: April 26, 2002 Box DAC

For: FERTILISER COMPOSITIONS

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)

Commissioner for Patents
Washington, DC 20231

Sir:

The above-identified application, namely PCT/NZ02/00077 which designated the United States is abandoned for failure to perfect the filing in the United States within 30 months from the underlying New Zealand priority which is dated May 9, 2001. Therefore, this application should have been perfected in the United States on or before November 9, 2003.

A petition fee in the amount of $1330 under 37 C.F.R. §1.17(m) is attached hereto. Should this amount prove insufficient, or the credit card request become detached, authorization is herewith given to charge undersigned counsel's deposit account 06-1358.

A proper reply for lodging this application in the United States is attached in the form of a PCT continuation application along with the appropriate fee.

A Terminal Disclaimer is not necessary since the effective filing date of this application is after June 8, 1995.

The entire delay in filing the required reply from the due date for reply until the filing of a grantable Petition under 37 C.F.R. §1.137(b) was unintentional.

Early indication that this Petition has been granted and the PCT continuation application, which unintentionally was not filed in the United States is given a filing date, is courteously awaited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: _____
John C. Holman
Reg. No. 22,769

400 Seventh Street, N.W.
Washington, DC 20004
(202) 638-6666
Atty. Dkt. No.: P69287US1
Date: December 2, 2003

Enclosures: Petition Fee
Order letter and papers necessary for filing a PCT continuation application

Att'y Docket No.: P69287US1
Serial No.: New PCT Continuation Application
Applicant: QUIN
Filing Date: December 2, 2003

Today's Date: December 2, 2003

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

X Petition for Revival and Credit Card Form
X Preliminary Amendment
X 12 pp. Specification, including 44 Claims and Abstract
X Drawings 2 Sheets

DUE DATE: ASAP

OIPE JC79
DEC 0 2 2003
PATENT & TRADEMARK OFFICE

JACOBSON HOLMAN PLLC
400 SEVENTH STREET, NW
WASHINGTON, DC 20004

JCH/cmf

Att'y Docket No.: P69287US1
Serial No.: New PCT Continuation Application
Applicant: QUIN
Filing Date: December 2, 2003

Today's Date: December 2, 2003

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

X Petition for Revival and Credit Card Form
X Preliminary Amendment
X 12 pp. Specification, including 44 Claims and Abstract
X Drawings 2 Sheets

'22581 U.S. PTO
10/725040
120203

DUE DATE: ASAP

JACOBSON HOLMAN PLLC
400 SEVENTH STREET, NW
WASHINGTON, DC 20004

EARLY SERIAL NO. _____

JCH/cmf

LAW OFFICES OF
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PROFESSIONAL LIMITED LIABILITY COMPANY
400 SEVENTH STREET, N. W.
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December 2, 2003

Atty. Docket No.: P69287US1
CUSTOMER NUMBER: 00136

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

Sir:

Transmitted herewith for filing is a CONTINUATION application of PCT/NZ02/00077 filed on April 26, 2002 of **Bertram Francis Charles QUIN** for **FERTILISER COMPOSITIONS** and which is hereby incorporated by reference. The application comprises a **12**-page specification, including **44** claims (13 independent) and Abstract, and **2** sheets of drawings.

Accompanying the application for filing is:

Preliminary Amendment.

A certified copy of **New Zealand** Application No. **511606**, filed **May 9, 2001**, will follow in due course, the priority of which is claimed under 35 U.S.C. §119 and which is hereby incorporated by reference.

This application is being filed under 37 C.F.R. §1.53(f) (without Declaration or Filing Fee). The required Declaration and Filing Fee will be filed subsequently.

Should a fee be necessary to obtain a filing date, e.g. paying the basic fee for nationalizing a PCT application, the Commissioner is hereby authorized to charge payment of any fees set forth in §§1.17 or 1.492 during the pendency of this application, or credit any overpayment, to Deposit Account No. 06-1358. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By _____
John C. Holman
Reg. No. 22,769

cmf

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bertram Francis Charles QUIN

Serial No.: New

Filing Date: December 2, 2003

For: FERTILISER COMPOSITIONS

PRELIMINARY AMENDMENT

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

Sir:

Prior to initial examination, please amend the above-identified application as follows:

IN THE SPECIFICATION

On page 1, immediately following the title, please insert the following sentence:

This is a continuation of PCT/NZ02/00077 filed April 26, 2002 and published in English.

REMARKS

The foregoing Preliminary Amendment is requested in order to place the application in better form for examination.

Early action on the merits is respectfully requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By _____
John C. Holman
Reg. No. 22,769

400 Seventh Street, N.W.
Washington, D.C. 20004-2201
(202) 638-6666

Atty. Docket: P69287US1
Date: December 2, 2003
JCH/cmf

"FERTILISER COMPOSITIONS"

TECHNICAL FIELD

The present invention relates to fertilisers.

Urea is a frequently used fertiliser as a source of ground and/or plant nitrogen.

Sulphur-coated urea products have been developed and are considered to be useful because

1) urea being a high nitrogen containing product, even when coated, still results in a product having a nitrogen content of about 38 to 44% by weight;
2) sulphur coating of urea reduces leaching of nitrate and volatilisation of nitrous oxide and ammonia;
3) sulphur coating of urea therefore improves the efficiency of utilisation of the nitrogen in the urea;
4) sulphur is relatively cheap; and
5) sulphur is itself a valuable secondary nutrient.
6) such products can be blended with phosphate fertilisers.

Some sulphur coating procedures rely on the addition of additional agents in order to achieve an effective coating whilst others rely upon a melt application procedure. Dry coating procedures have a disadvantage in that the coating, even prior to application as a fertiliser, can become cracked, in which case it breaks off the urea and the coating benefits are lost.

SUMMARY OF THE INVENTION

The present invention recognises the prospect of a simple procedure being utilised to provide an effective coating of urea using sulphur and which additionally has the advantage of being capable of being used in conjunction with the incorporation of nitrification inhibitors and/or urease inhibitors, if required or desired. It is to this therefore that the present invention is directed.

In a first aspect the present invention consists in **a particulate fertiliser composition** of particulate urea (eg; granules or prills) coated with wetground sulphur.

Preferably said wet ground sulphur has been dewatered to some extent (ie; 5 to 20% and most typically to 8 - 15% by weight moisture) prior to the association of such sulphur particles with the urea particles.

Preferably said sulphur particles serially or simultaneously are associated with said urea with a nitrification inhibitor and/or a urease inhibitor.

In another aspect the present invention consists in **a particulate fertiliser composition** of particulate urea coated with both sulphur and a nitrification and/or urease inhibitor.

Preferably said sulphur is wet ground sulphur.

Preferably at least 90% of the said sulphur is of particle size from 10 to 150 microns (preferably of a medium particle size of about 75 microns).

Preferably said urea is in the form of (standard or other) granules or prills and each such particle (ie; granule or prill) has a weight of sulphur plus moisture plus inhibitor added (expressed as a % of the total weight of prill or granule) in the range of from 5 to 25% (more preferably 5 to 20%). Alternatively 10 to 25%.

Preferably said nitrification inhibitor is selected from the group consisting of DCD (dicyandiamide) or DIDIN™ (a DCD containing product of SKW, Germany which also includes ammonium thiosulphate and ammonium phosphate).

Preferably the nitrification inhibitor is incorporated as a fine particle or as a solution.

Preferably the weight percentage of nitrification inhibitor relative to sulphur is in the range of from 5% to 50% by weight (alternatively 10 to 50%)

Preferably the urease inhibitor is AGROTAIN™ Urease Inhibitor, a liquid product (of N-(n-butyl)thiophosphoric triamide in N-methyl pyrrolidone and another solvent) produced by Agrotain International LLC, Indiana, USA.

Preferably the weight percentage of urease inhibitor relative to sulphur is in the range of 2 to 12%.

Preferably the weight percentage of sulphur relative to urea is from 4% to 15% (alternatively 5 to 15% or 10 to 15%).

Preferably said sulphur at the time of its association with the urea has a water content of from 8% to 15%.

Preferably the coating of the urea is with a mixture of the sulphur and the nitrification and/or urease inhibitor.

Preferably said product has been formed by combining sulphur (that has been ground underwater and subsequently de-watered) with the nitrification inhibitor and the subsequent mixing of that mixture with the urea.

In still a further aspect the present invention consists in **a urea based fertiliser** being or having urea granules coated to provide a surrounding matrix of both sulphur and a

nitrification inhibitor, the sulphur binding into the urea to create a mixed urea/sulphur transition zone which may (and preferably does) include some of said nitrification and/or urease inhibitor.

In still a further aspect the present invention consists in **a fertiliser** in granule, prill or the like form having a core of urea, an inner peripheral zone of both at least urea and sulphur and an outer peripheral zone of both at least urea and sulphur and an outer peripheral of at least sulphur.

Preferably one or both of said peripheral zones includes a nitrification and/or urease inhibitor.

In still a further aspect the present invention consists in **a method of preparing a fertiliser from particulate urea** (eg; granules or prills) which comprises or includes mixing such particulate urea (serially and/or simultaneously) with a wetground elementary sulphur and a compatible nitrification and/or urease inhibitor.

Preferably said mixing is simultaneous, ie; the wet ground and de-watered sulphur having previously been mixed with the preferably particulate nitrification and/or urease inhibitor.

Preferably the characteristics of the nitrification and/or urease inhibitor, the sulphur and the urea and their relativities are substantially as previously stated.

In still a further aspect the present invention consists in **a urea granule or prill based fertiliser** having a surround which includes both elementary sulphur and a nitrification and/or urease inhibitor, the sulphur binding or assisting in the binding of the nitrification and/or urease inhibitor to the urea.

Preferably said sulphur was wet ground sulphur.

In still a further aspect the present invention consists in **the fertiliser usage of a fertiliser composition or urea based fertiliser product** as previously stated, ie; by its application to a locus of the ground to be fertilised.

This invention may also be said broadly to consist in the parts, elements and features referred to or indicated in the specification of the application, individually or collectively, and any or all combinations of any two or more of said parts, elements or features, and where specific integers are mentioned herein which have known equivalents in the art to which this invention relates, such known equivalents are deemed to be incorporated herein as if individually set forth.

BRIEF DESCRIPTION OF THE DRAWINGS

Preferred forms of the present invention will now be described with reference to the accompanying drawings in which;

Figure 1 shows typical breakdown chemical reactions of urea which generates both N_2O and ammonia in addition to forms of nitrogen which can be utilised by plants, and

Figure 2 shows a flow diagram of a preferred process in accordance with the present invention, etc.

DETAILED DESCRIPTION OF THE INVENTION

As used herein the term "wet grinding" in relation to sulphur involves any physical modification of the sulphur by physical or mechanical means in a liquid environment and preferably water with a view to size reduction.

Details of one such procedure developed by M W Brown of New Zealand Pastoral Agriculture Research Institute Limited (possibly subsequently assigned to HiTech Products Limited and subject to their NZ Patent Application 337251) was disclosed in the Agritech 2000 TV Programme 18 recorded 5 September 1997 and broadcast in New Zealand.

The aforementioned TV Agritech 2000 TV Programme 18 makes reference to a milkshake type dispersing apparatus to reduce the size of the sulphur in water. They attributed to that crude disperser process the prospect of size reduction dependent on water to sulphur ratio, dependent on duration of disperser use and dependent on speed of the disperser in to the there depicted accumulations of 0.25 mm, 0.15 mm, 0.075 mm and less than 0.075 mm wet ground sulphur.

A suitable disperser for such purpose could be that as used in that programme or that subsequently used by HiTech Products Limited. Other suitable dispersers for such a process are those of IKA and Silverson.

It is to the production of such size reduced sulphur with its consequential characteristics that the term "wet grinding" (or variations of the term) relates even if it is not what would be considered as grinding or milling if in a dry environment.

The de-watering step referred to in Figure 2 is preferably no more than a physical de-watering procedure such as might occur by pouring the sulphur slurry into porous bags and applying pressure to force excess water out and thereafter conditioning the resultant moist sulphur solids to break up soft lumps of sulphur.

The mixing procedure can be in any suitable blending apparatus for the initial introduction of the nitrification and/or urease inhibitor. Likewise the same or a different mixing or blending apparatus can be used for blending the urea into (as preferred) the pre-existent mix of the wetground sulphur and the nitrification and/or urease inhibitor.

The resultant product, which is a pale yellow in appearance, otherwise has much the same physical appearance of uncoated urea granules or prills and has similar free flow characteristics without any ready tendency to shed the coating.

Where the main requirement for sulphur is as a nutrient in its own right, and to help reduce ammonia volatilisation through reducing the pH around the granules, sulphur addition is more likely to be in the 4 to 10% weight range relative to the urea.

Where the main requirement for sulphur is to make a urea coated product that can be blended with soluble phosphate fertilisers, sulphur addition is more likely to be in the 10-15% weight range relative to the urea.

1. A particulate fertiliser composition of particulate urea coated with wet ground sulphur.

2. A composition of claim 1 in the form of granules or prills.

3. A composition of claim 1 wherein said wet ground sulphur has been dewatered to some extent prior to the association of such sulphur with the urea.

4. A composition of claim 3 wherein said dewatering has been to 8 to 15% moisture.

5. A composition of claim 3 wherein said dewatering has been to 5 to 20% moisture.

6. A composition of claim 1 wherein said sulphur has been associated with said urea serially (before or after) or simultaneously with a nitrification inhibitor.

7. A composition of claim 1 wherein said sulphur has been associated with said urea serially (before or after) and/or simultaneously with a urease inhibitor.

8. A particulate fertiliser composition of particulate urea coated with both sulphur and a nitrification inhibitor.

9. A particulate fertiliser composition of particulate urea coated with both sulphur and a urease inhibitor.

10. A composition of claim 8 wherein said sulphur is wet ground sulphur.

11. A composition of claim 10 wherein at least 90% of the said sulphur is of particle size from 10 to 150 microns of a median particle size of about 75 microns.

12. A composition of claim 1 wherein said urea is in the form of granules or prills and each such granule or prill has a weight of wet ground sulphur plus moisture plus inhibitor added (expressed as a % of the total weight of prill or granule) in the range of from 5 to 20%.

13. A composition of claim 12 wherein each such granule or prill has a weight of sulphur plus moisture plus inhibitor added (expressed as a % of the total weight of prill or granule) in the range of from 10 to 20%.

14. A composition of claim 10 wherein the sulphur at the time of the coating had a moisture content of from 8 to 15% by weight.

15. A composition of claim 8 wherein the nitrification inhibitor is incorporated as fine particles or as a solution.

16. A composition of claim 15 wherein the weight percentage of nitrification inhibitor relative to sulphur is in the range of from 5% to 50%.

17. A composition of claim 16 wherein the weight percentage of nitrification inhibitor relative to sulphur is in the range of from 10% to 50%.

18. A composition of claim 9 wherein the weight percentage of urease inhibitor relative to sulphur is in the range of I to 12%.

19. A composition of claim 1 wherein the weight percentage of sulphur relative to urea is from 4% to 15%.

20. A composition of claim 19 wherein the weight percentage of sulphur relative to urea is from 8% to 15%.

21. A composition of claim 19 wherein the weight percentage of sulphur relative to urea is from 4% to 10%.

22. A composition of claim 19 wherein the weight percentage of sulphur relative to urea is from 10% to 15%.

23. A composition of claim 19 wherein said sulphur at the time of its association with the urea has a water content of from 8% to 15%.

24. A composition of claim 8 wherein the coating of the urea is with a mixture of the sulphur and the nitrification inhibitor.

25. A composition of claim 9 wherein the coating of the urea is with a mixture of the sulphur and the urease inhibitor.

26. A composition of claim 8 wherein the coating of the urea is with a mixture of the sulphur and both a nitrification inhibitor and an urease inhibitor.

27. A composition of claim 24 wherein said product has been formed by combining sulphur (that has been ground underwater and subsequently de-watered) with the nitrification inhibitor and the subsequent mixing of that mixture with the urea.

28. A composition of claim 25 wherein said product has been formed by combining sulphur (that has been ground underwater and subsequently de-watered) with the crease inhibitor and the subsequent mixing of that mixture with the urea.

29. A urea based fertiliser being or having urea granules coated to provide a surrounding matrix of both sulphur and a nitrification inhibitor, the sulphur binding into the urea to create a mixed urea/sulphur transition zone which may include some of said nitrification inhibitor.

30. A urea based fertiliser being or having urea granules coated to provide a surrounding matrix of both sulphur and a urease inhibitor, the sulphur binding into the urea to create a mixed urea/sulphur transition zone which may include some of said urease inhibitor.

31. A urea based fertiliser being or having urea granules coated to provide a surrounding matrix of sulphur, a urease inhibitor and a nitrification inhibitor, the sulphur binding into the urea to create a mixed urea/sulphur transition zone which may include some of one or both of said nitrification and urease inhibitors.

32. A fertiliser in granule, prill or the like form having a core of urea, an inner peripheral zone of both at least urea and sulphur and an outer peripheral zone of both at least urea and sulphur and an outer peripheral zone of at least sulphur.

33. A fertiliser of claim 32 wherein one or both of said peripheral zones includes a nitrification inhibitor.

34. A fertiliser of claim 32 wherein one or both of said

peripheral zones includes a urease inhibitor.

35. A fertiliser of claim 32 wherein one or both of said peripheral zones includes both a nitrification and urease inhibitor.

36. A method of preparing a fertiliser from particulate urea which comprises or includes mixing such particulate urea (serially and/or simultaneously) with a wetground elementary sulphur and a compatible nitrification inhibitor.

37. A method of preparing a fertiliser from particulate urea which comprises or includes mixing such particulate urea (serially and/or simultaneously) with a wetground elementary sulphur and a compatible nitrification and urease inhibitor.

38. A method of preparing a fertiliser from particulate urea which comprises or includes mixing such particulate urea (serially and/or simultaneously) with a wetground elementary sulphur and a compatible nitrification and urease inhibitor.

39. A method of claim 36 wherein said mixing is simultaneous, ie; the wet ground and de-watered sulphur having previously been mixed with the preferably particulate nitrification and/or urease inhibitor.

40. A urea granule or prill based fertiliser having a surround which includes both elementary sulphur and a nitrification inhibitor, the sulphur binding or assisting in the binding of the nitrification inhibitor to the urea.

41. A urea granule or prill based fertiliser having a surround which includes both elementary sulphur and a urease inhibitor, the sulphur binding or assisting in the binding of

the urease inhibitor to the urea.

42. A urea granule or prill based fertiliser having a surround which includes both elementary sulphur and a urease inhibitor, the sulphur binding or assisting in the binding of the urease inhibitor to the urea.

43. A urea granule or prill based fertiliser as claimed in claim 40 wherein said sulphur was wet ground sulphur.

44. The fertiliser usage of a fertiliser composition or fertiliser of claim 1.

ABSTRACT

A fertiliser composition in the form of granules or prills where urea has been coated with wet ground sulphur. The wet ground sulphur is preferably applied serially and/or simultaneously with one or both of a nitrification inhibitor and a urease inhibitor.

In its preferred form there is a core of urea and an inner peripheral zone of both at least urea and sulphur. The outer peripheral zone can be of at least urea and sulphur or at least sulphur, or both.

Chemical reactions involving urea and its reaction products in the soil

(a) Hydrolysis of urea to ammonium

$$\underset{\text{urea}}{(NH_2)_2CO} + \underset{\text{water in soil}}{H_2O} \xrightarrow[\text{enzyme}]{\text{urease}} \underset{\text{ammonium carbonate}}{(2NH_4)_2CO_3} \quad (1)$$

$$(NH_4)_2CO_3 \underset{\text{dependent}}{\overset{\text{condition}}{\rightleftharpoons}} \underset{\text{ammonium ions}}{NH_4^+} + \underset{\text{ammonia gas}}{NH_3(\uparrow)} + \underset{\text{carbon dioxide gas}}{CO_2(\uparrow)} + \underset{\text{hydroxide}}{OH^-} \quad (2)$$

(b) Oxidation of ammonium to nitrate ("nitrification")

$$2NH_4^+ + O_2 \xrightarrow[\text{bacteria}]{\text{Nitrosomonas}} 2NH_2OH + 2H^+ \quad (3)$$

$$2NH_2OH + O_2 \longrightarrow \underset{\text{nitrous oxide gas}}{N_2O(\uparrow)} + 3H_2O \quad (4)$$

$$2N_2O + 2O_2 + 2H_2O \xrightarrow[\text{bacteria}]{\text{Nitrosomonas}} \underset{\text{nitrite (transient)}}{4NO_2^-} + 4H^+ \quad (5)$$

$$2NO_2^- + O_2 \xrightarrow[\text{bacteria}]{\text{Nitrobacter}} \underset{\text{nitrate (leachable)}}{2NO_3^-(\downarrow)} \quad (6)$$

Notes:

Reaction (2) gives rise to losses of ammonia gas (NH_3)
Reaction (4) gives rise to losses of nitrous oxide gas (N_2O)
Reaction (6) gives rise to leaching of nitrate (NO_3^-)
Reaction (2) gives rise to temporary increase in pH
Reactions (3) and (5) give rise to ultimate decrease in pH

- Urease "inhibitor" acts by directly slowing the rate of reaction (1) and by indirectly slowing the rate of reactions (2) - (6)
- Nitrification "inhibitors" act by slowing some or all of reactions (3) - (6)
- Sulphur-coating reduces the speed with which the conversion of urea to other products can take place, principally by slowing contact of the urea with water and oxygen, and reducing the pH near the granule.

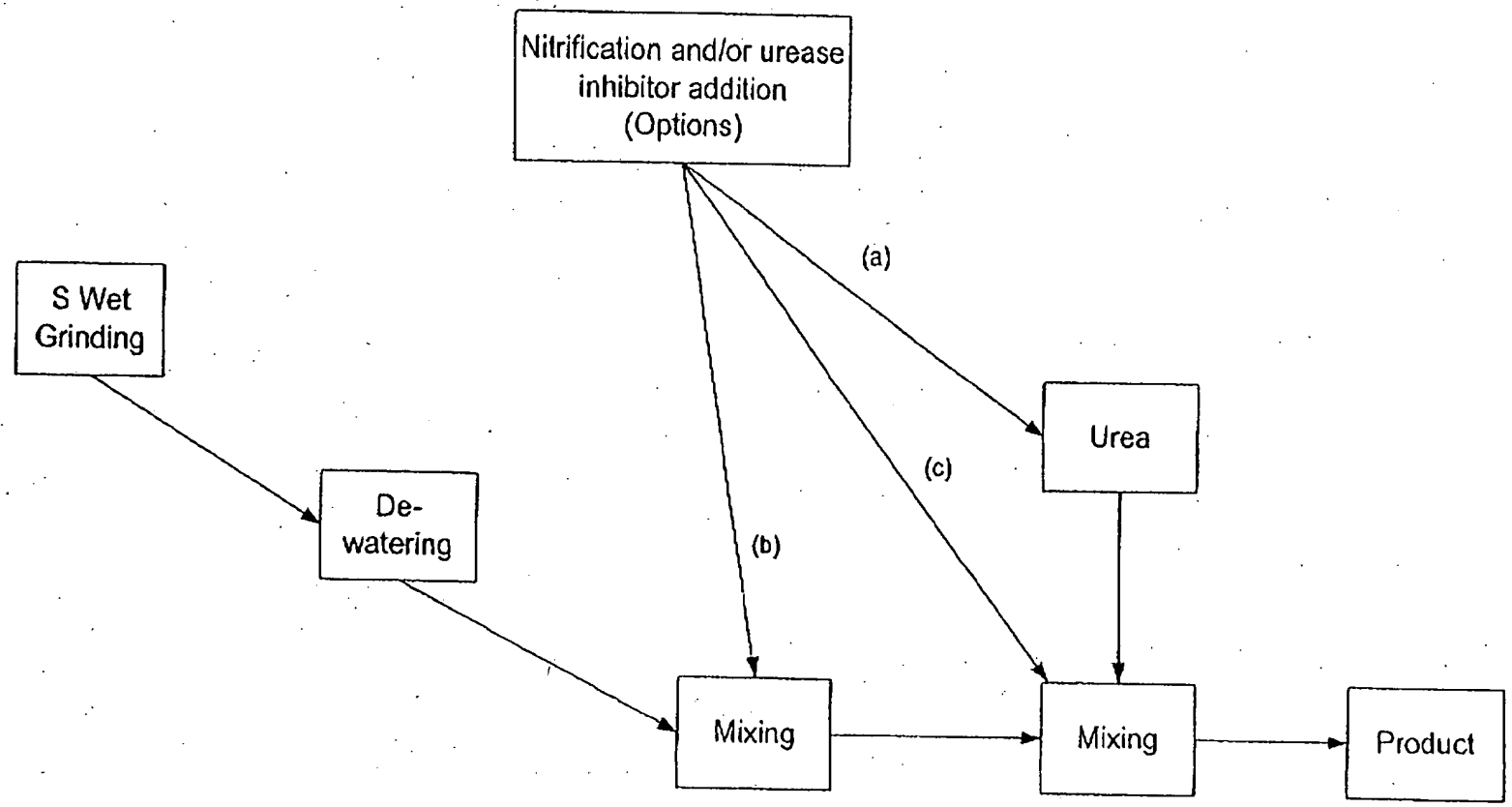
Nitrification and/or urease inhibitor addition (Options)
S Wet Grinding
De-watering
Urea
Mixing
Mixing
Product
(a)
(b)
(c)

FIGURE 2

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of	:	
Ryhwei Yeh, Haili Ma and Samuel Kim	:	DECISION
Application No.10/725,043	:	
Filed: December 1, 2003	:	
Attorney Docket No. 5670-33	:	
Title of Invention: METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR AUTOMATIC REKEYING IN AN AUTHENTICATION ENVIRONMENT	:	

This is in response to the petition under 37 CFR 1.47(a) filed July 19, 2003 (certificate of mailing July 16, 2004).

The petition is GRANTED.

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

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

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

Ryhei Yeh
915 Piers Court
Palo Alto. CA 9403

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of
Ryhwei Yeh, Haili Ma and Samuel Kim
Application No.10/725,043
Filed: December 1, 2003
Attorney Docket No. 5670-33
Title of Invention: METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR AUTOMATIC REKEYING IN AN AUTHENTICATION ENVIRONMENT

LETTER

Dear Mr. Yeh:

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, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. 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

Charlema R. Grant
Petitions Attorney
Office of Petitions

TIMOTHY O'SULLIVAN
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Zoller, et al.	:	
Application No. 10/725,076	:	ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. 54078D1	:	

This is a decision on the petition under 37 CFR 1.181, filed February 28, 2005 and April 28, 2006, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 16, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 17, 2004. A Notice of Abandonment was mailed on November 22, 2004.

Petitioner asserts the Notice was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted.

The file is being forwarded to the Office of Initial Patent Examination for re-mailing of the January 16, 2004 Notice with a new period for response.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

OCT 19 2004

TECHNOLOGY CENTER 3600

Rogers Towers, P.A.
1301 Riverplace Boulevard, Suite 1500
Jacksonville, FL 32207

In re Application of:
Joseph R. Moody et al.
Serial No: 10/725,082
Filed: December 2, 2003
For: FORE GRIP WITH BIPOD

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is a decision on the petition filed June 3, 2004 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

The petition states that the invention will contribute to countering terrorism by increasing the effectiveness of service and law enforcement personnel when utilizing firearms. Petitioner's invention and statement however, appear to deal more a general effectiveness of utilizing firearms which could in fact also increase the effectiveness of terrorists, rather than providing specific counter terrorism measures. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, these examples all clearly act to directly and primarily counter terrorism. Thus, the tie to countering terrorism as argued by the applicant is not seen as being sufficient to accord special status to this application.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or

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

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

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

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

SNM/vdb: 10/12/04

OIPE JC38
DEC 2 0 2004
PATENT & TRADEMARK OFFICE

3/4/05

APPROVED

IFW

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	10/725082
Filing Date	12/02/2003
First Named Inventor	Moody
Art Unit	3641
Examiner Name	
Attorney Docket Number	

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

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 29633

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: Co-inventors have expressly terminated the all atttomeys associated with the above customer number from future representation of their interests before the USPTO. There are no deadlines pending and no responses due the USPTO at this time, as there has been no office action yet issued in this matter.

fired

Mandatory

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	Mr. Joseph Moody				
Address	738 Natures Hammock Dr.				
City	Jacksonville	State	FL	Zip	32259
Country	US				
Telephone	904-287-2272			Fax	
Signature					
Name	Thomas C. Saitta			Registration No.	32102
Date	12/16/2004			Telephone No.	904-346-5518

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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ALEXANDRIA, VA 22313-1450
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Barbara J. Stinnette
806 Hopewood Rd
Baltimore MD 21208

COPY MAILED

DEC 13 2005

OFFICE OF PETITIONS

Applicant: Stinnette
Appl. No.: 10/725,083
Filing Date: April 27, 2004
Title: PLASTIC DISPOSABLE TRASH CAN COVER
Pub. No.: US 2005/0115970 A1
Pub. Date: July 14, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on September 14, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as the publication does not include the Brief Description of the Drawings submitted by an amendment in response to an Office Notice.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication does not include a mistake with respect to the preliminary amendment for the Brief Description of the Drawings. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),** amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The preliminary amendments to the specification filed September 3, 2004, does not comply with 37 CFR 1.125(b). The Office correctly published the application in accordance with 37 CFR 1.215(a).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of 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 O. 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

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

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Karl-Friedrich Laible	: DECISION ON REQUEST FOR
Patent Number	: 7665814	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/725,088	: 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 **1527** 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.

RLI

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 1 1 2004

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Paper No. 10

CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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AUG 1 5 2003

OFFICE OF PETITIONS

In re Application of
Mark Zoller, Xiaodong Li, Lena Staszewski,
Shawn O'Connell, Sergey Zozulya, Jon Adler,
Hong Xu and Fernando Echeverri
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket Number: P 0291566
Title of Invention: T1R
HETERO-OLIGOMERIC TASTE RECEPTORS
AND CELL LINES THAT EXPRESS SAID
RECEPTORS AND USE THEREOF FOR
IDENTIFICATION OF TASTE COMPOUNDS

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

#54074 US

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 23, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Robin Teskin attest a copy of the application was sent to non-signing inventor's last known address and non-signing inventor's legal representative. Additional attempts to contact the non-signing inventors went unanswered. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

Dr. Jon Elliot Adler
1099 Turquoise Street Apt. 15
San Diego, CA 92122

In re Application of
Mark Zoller, Xiaodong Li, Lena Staszewski, Shawn O'Connell, Sergey Zozulya, Jon Adler, Hong Xu and Fernando Echeverri
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket Number: P 0291566
Title of Invention: T1R HETERO-OLIGOMERIC TASTE RECEPTORS AND CELL LINES THAT EXPRESS SAID RECEPTORS AND USE THEREOF FOR IDENTIFICATION OF TASTE COMPOUNDS

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AUG 1 5 2003

LETTER OFFICE OF PETITIONS

Dear Dr. Adler:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. 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

Robin Teskin
CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

cc: Marilynn Mika Spenser

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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DIW Nov-05

MICHAEL R. MCKENNA
STE. 3800
500 W. MADISON
CHICAGO IL 60661

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Diaz et al.	:	
Application No. 10/725,141	:	ON PETITION
Filed: 1 December, 2003	:	
Atty Docket No. 053787/0119	:	
	:	

This is a decision on the petition under 37 CFR 1.182, filed on 17 October, 2005, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. R. Gary Diaz
2. John W. Callahan
3. Thomas R. Schleicher

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being referred to Publishing Division to await receipt of the issue and publication fee(s).

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: Corrected Filing Receipt

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OFFICE OF PETITIONS

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

In re Application of	:
William L. Howat et al	:
Application No. 10/725,147	: DECISION GRANTING PETITION
Filed: December 1, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. CRD-5053	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 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 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 July 31, 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 3738.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: MAY 18 2004

CST

In re application of El-Shall et al Serial No. 10/725,158 Filed: December 1, 2003 For: TREATMENT OF SPENT PULPING LIQUOR WITH LIGNIN SEPARATION TO RECOVER ALKALI PULPING CHEMICALS IN MANUFACTURE OF PAPER PULP	:	DECISION ON PETITION

This is a decision on the petition filed December 1, 2003 requesting that the above-identified application be granted Special Status under section 708.02(VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is granted because the criteria set forth in MPEP 708.02(VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

AKERMAN SENTERFITT
222 Lakeview Avenue, Suite 400
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF RICHARD B KLAR
28 EAST OLD COUNTRY ROAD
HICKSVILLE NY 11801

COPY MAILED
SEP 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Kevin Martzloff	:	
Application No. 10/725,184	:	ON PETITION
Filed: November 29, 2003	:	
Attorney Docket No. 82RK0023U	:	

This is in response to the "Notice OF Correction of Spelling of Inventor's Name", filed February 13, 2006.

Applicant has requested to correct the spelling of the name of inventor Kevin Martzolff to Kevin Martzloff.

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the spelling of the inventor's name.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF RICHARD B. KLAR
145 WILLIS AVENUE
MINEOLA, NY 11501

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AUG 05 2008

In re Application of	:	
Kevin Martzloff	:	
Application No. 10/725,184	:	ON PETITION
Filed: November 29, 2003	:	
Attorney Docket No. 82RK0023U	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 21, 2007 and supplemented on February 21, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed August 29, 2007. A Notice of Abandonment was mailed on January 4, 2008.

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 (1).

The Office acknowledges receipt of $1,540 for treatment of the instant petition, $300 for payment of the publication fee and $1,420 for partial payment of the issue fee. However, effective September 30, 2007 the large entity issue fee is listed as $1,440. Therefore, revival of the above application cannot occur until the fee deficiency of $20 has been submitted.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is 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 35 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.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries regarding 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

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard F. **BORCH** et al.	:	
Application No. 10/725,191	:	DECISION GRANTING PETITION
Filed: December 1, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3220-200986	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 22, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 22, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Xuejun Wang et al.	:	
Application No. 10/725,197	:	DECISION ON PETITION
Filed: December 1, 2003	:	TO WITHDRAW
Attorney Docket No. **324212003700**	:	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 18, 2010.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 76102 has been revoked by the applicants of the patent application on April 29, 2010. Accordingly, the request to withdraw under 37 CFR § 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 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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JUL 11 2006
OFFICE OF PETITIONS

In re Application of Stephen G. Evangelides, Jr. et al. Application No. 10/725,199 Filed: December 1, 2003 Attorney Docket Number: 9005/41 Title: UNDERSEA OPTICAL TRANSMISSION SYSTEM EMPLOYING RAMAN GAIN TO MITIGATE SHALLOW WATER REPAIR PENALTIES	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed March 22, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 26, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 27, 2005. A notice of abandonment was mailed on December 7, 2005.

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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 present petition was received on March 22, 2006, along with the petition fee, remarks, and the proper statement of unintentional delay. No terminal disclaimer is required.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the concurrently submitted remarks can be processed.

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

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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Sealed Air Corporation
P.O. Box 464
Duncan, SC 29334

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael D. Grah, et al.	:	
Application No. 10/725,209	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No.: D-43583-01	:	
	:	

This is a decision on the petition, filed July 14, 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 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]

It is noted that the address given on the petition slightly differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03.

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 1711 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HENRI DUONG
316 1/2 E GLENDON WAY
ALHAMBRA CA 91801

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of Henri Duong Application No. 10/725,226 Filed: December 1, 2003 Title: Back Driving Automatic Brake System & Automatic Braking System for Equipping in all Vehicles, Airplanes, Ships, Etc.	: : : : :	ON PETITION

This is a decision on the paper filed August 18, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, and the petition to revive the abandoned application under 37 CFR 1.137(a), filed September 28, 2006.

The petition under 37 CFR 1.181 is **DISMISSED.**

The petition under 37 CFR 1.137(a) is **DISMISSED.**

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

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed December 30, 2005. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on January 23, 2006, but by Advisory Action mailed February 14, 2006, the Examiner advised Applicant that the response would not be entered because it failed to place the application in condition for allowance. Applicant filed another response on February 17, 2006, but once again this reply failed to place the application in condition for allowance. No further reply with an extension of time under 37 CFR 1.136(a) having been received, the above-identified application became abandoned on March 31, 20046 A Notice of Abandonment was mailed on August 7, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee required by 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)) as required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

As to requirement (3), petitioner has not met his burden of establishing that the delay was unavoidable.

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal.

Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal. The last day an RCE, continuing application, or Notice of Appeal could have been filed, with the maximum allowed three month extension of time, would have been June 30, 20046

As to requirement (1), petitioner has not submitted a reply that *prima facie* places the application in condition for allowance (i.e. an RCE, continuing application, or Notice of Appeal).

On renewed petition, petitioner must submit a proper reply in response to the final Office action mailed December 30, 2005. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a Request for Continued Examination (RCE) under 37 CFR 1.114.

If petitioner can not meet the showing required to establish unavoidable delay, petitioner may seek to revive the application

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[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

under 37 CFR 1.137(b) - unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m), currently $750 for a small entity; (3) a **statement** that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 16 2007

OFFICE OF PETITIONS

HENRI DUONG
316 1/2 E GLENDON WAY
ALHAMBRA CA 91801

In re Application of Henri Duong Application No. 10/725,226 Filed: December 1, 2003 Title: Back Driving Automatic Brake System & Automatic Braking System for Equipping in all Vehicles, Airplanes, Ships, Etc.	: : : : :	ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment filed October 23, 2006, as well as the subsequent letter filed December 23, 2006.

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. 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 1.18`."

The above-identified application became abandoned for failure to timely file a **proper** reply to the final Office action mailed December 30, 2005. This Office action set a shortened statutory

period for reply of three (3) months. Applicant filed a response on January 23, 2006, but by Advisory Action mailed February 14, 2006, the Examiner advised Applicant that the response would not be entered because it failed to place the application in condition for allowance. Applicant filed another response on February 17, 2006, but once again this reply failed to place the application in condition for allowance. No further reply with an extension of time under 37 CFR 1.136(a) having been received, the above-identified application became abandoned on March 31, 20046 A Notice of Abandonment was mailed on August 7, 2006. Applicant filed a petition to withdraw the holding of abandonment on August 18, 2006, as well as a petition to revive under 37 CFR 1.137(a) on September 28, 2006. Both petitions were dismissed in a decision mailed on October 16, 2006.

On renewed petition, applicant argues that the February 14, 2006 Advisory Action instructed applicant to file an "amendment or affidavit". Applicant then argues that he filed a reply, namely an affidavit, on February 17, 2006.

Applicant is only partially correct with regard to what was stated in the February 14, 2006 Advisory Action. That Advisory Action did not merely require an "amendment or affidavit" to avoid abandonment of the application. More specifically, the Advisory Action required an "amendment, affidavit, or other evidence, **which places the application in condition for allowance**". Applicants replies filed January 23, 2006 and February 17, 2006 failed to place the application in condition for allowance.

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal.

Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal. The last day an RCE, continuing application, or Notice of Appeal

could have been filed, with the maximum allowed three month extension of time, would have been June 30, 2006.

Applicant is recommended to promptly filed a petition to revive under 37 CFR 1.137(b) - unintentional delay. Applicant's failure to promptly file this petition may be regarded as constituting intentional delay, and held to be and absolute bar to revival.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed (i.e. an RCE, continuing application, or Notice of Appeal); (2) the petition fee set forth in 37 CFR 1.17(m), currently $750 for a small entity; (3) a **statement** that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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MAR 26 2007

OFFICE OF PETITIONS

HENRI DUONG
316 1/2 E GLENDON WAY
ALHAMBRA CA 91801

In re Application of Henri Duong Application No. 10/725,226 Filed: December 1, 2003 Title: Back Driving Automatic Brake System & Automatic Braking System for Equipping in all Vehicles, Airplanes, Ships, Etc.	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 30, 2007.

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

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

The above-identified application became abandoned for failure to timely file a **proper** reply to the final Office action mailed December 30, 2005. This Office action set a shortened statutory

period for reply of three (3) months. Applicant filed a response on January 23, 2006, but by Advisory Action mailed February 14, 2006, the Examiner advised Applicant that the response would not be entered because it failed to place the application in condition for allowance. Applicant filed another response on February 17, 2006, but once again this reply failed to place the application in condition for allowance. No further reply with an extension of time under 37 CFR 1.136(a) having been received, the above-identified application became abandoned on March 31, 20046 A Notice of Abandonment was mailed on August 7, 2006. Applicant filed a petition to withdraw the holding of abandonment on August 18, 2006, as well as a petition to revive under 37 CFR 1.137(a) on September 28, 2006. Both petitions were dismissed in a decision mailed on October 16, 2006. Applicant filed a renewed petition October 23, 2006. However, the petition was dismissed in a decision mailed on January 16, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the **reply** required to the outstanding Office action or notice, unless previously filed (i.e. an RCE, continuing application, or Notice of Appeal); (2) the petition fee set forth in 37 CFR 1.17(m), currently $750 for a small entity; (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

With the instant petition, applicant paid the petition fee and made the proper statement of unintentional delay. However, applicant did not submit the required reply to the December 30, 2005 final Office action. Applicant indicated that his reply in the form of an Amendment was previously filed on September 1, 2006. However, that Amendment did not place the application in condition for allowance.

With his renewed petition, applicant must submit either an RCE (and fee), continuing application (and fee), or Notice of Appeal (and fee).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HENRI DUONG
316 1/2 E GLENDON WAY
ALHAMBRA CA 91801

COPY MAILED

MAR 12 2008

OFFICE OF PETITIONS

In re Application of Henri Duong Application No. 10/725,226 Filed: December 1, 2003 Title: Back Driving Automatic Brake System & Automatic Braking System for Equipping in all Vehicles, Airplanes, Ships, Etc.	: : : : :	LETTER

This is in response to applicant's paper filed January 25, 2008, titled "Request refund for the unused fees of Revival (unavoidably, unintentionally) and Notice of Appeal for application no. 10/725,226 filing date: 12/01/2003 Art Unit 3683 being abandoned".

The request for a refund is **DISMISSED**.

The above-identified application became abandoned for failure to timely file a **proper** reply to the final Office action mailed December 30, 2005. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on January 23, 2006, but by Advisory Action mailed February 14, 2006, the Examiner advised Applicant that the response would not be entered because it failed to place the application in condition for allowance. Applicant filed another response on February 17, 2006, but once again this reply failed to place the application in condition for allowance. No further reply with an extension of time under 37 CFR 1.136(a) having been received, the above-identified application became abandoned on March 31, 2006.

A Notice of Abandonment was mailed on August 7, 2006. Applicant filed a petition to withdraw the holding of abandonment on August 18, 2006, as well as a petition to revive under 37 CFR 1.137(a) on September 28, 2006. Both petitions were dismissed in a decision mailed on October 16, 2006. Applicant filed a renewed petition October 23, 2006. However, the petition was dismissed in a decision mailed on January 16, 2007. Applicant filed a petition to revive under 37 CFR 1.137(b) on January 30, 2007. However, this petition was dismissed in a decision mailed on March 26, 2007. The decision explained that while applicant paid the petition fee and made the proper statement of unintentional delay, applicant's Amendment failed to place the application in condition for allowance. Applicant was instructed on renewed petition to submit either an RCE, continuing application, or Notice of Appeal.

On April 11, 2007, applicant filed a Notice of Appeal, together with its required fee. However, applicant did not submit it with a renewed petition under 37 CFR 1.137(b). As such, the Notice of Appeal was not entered by the Office.

Applicant has now filed the instant request for a refund of the petition fees and Notice of Appeal fee.

37 CFR 1.26 states:

> (a) The Commissioner may refund any fee **paid by mistake** or in excess of that required. **A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.** The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts. If a party paying a fee or requesting a refund does not provide the banking information necessary for making refunds by electronic funds transfer (31 U.S.C. 3332 and 31 CFR part 208), or instruct the Office that refunds are to be credited to a deposit account, the Commissioner may require such information, or use the banking information on the payment instrument to make a refund. Any refund of a fee paid by credit card will be by a credit to the credit card account to which the fee was charged.
>
> (b) Any request for refund must be filed within two years from the date the fee was paid, except as otherwise provided in this paragraph or in § 1.28(a). If the Office charges

> a deposit account by an amount other than an amount specifically indicated in an authorization (§ 1.25(b)), any request for refund based upon such charge must be filed within two years from the date of the deposit account statement indicating such charge, and include a copy of that deposit account statement. The time periods set forth in this paragraph are not extendable.[1]

Furthermore, MPEP 607.02 states:

> When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is **not** a "fee paid by mistake" within the meaning of 35 U.S.C. 41(d).
>
> 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will **not** entitle the party to a refund of such fee.[2]

Lastly, MPEP 711.03(c) states that:

> [T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

As can be seen from the above, refunding the petition fees and Notice of Appeal fee is not appropriate.

The application is currently abandoned. If applicant desires to revive the application pursuant to 37 CFR 1.137(b), applicant should submit a paper entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required for a renewed petition.

---

[1] 37 CFR 1.26 (emphasis added).

[2] MPEP 607.02 (emphasis added).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
www.uspto.gov

HENRI DUONG
316 1/2 E GLENDON WAY
ALHAMBRA CA 91801

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APR 09 2008

OFFICE OF PETITIONS

In re Application of :
Henri Duong :
Application No. 10/725,226 : ON PETITION
Filed: December 1, 2003 :
Title: Back Driving Automatic Brake :
System & Automatic Braking System
for Equipping in all Vehicles,
Airplanes, Ships, Etc.

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed March 21, 2008.

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

The above-identified application became abandoned for failure to timely file a **proper** reply to the final Office action mailed December 30, 2005. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on January 23, 2006, but by Advisory Action mailed February 14, 2006, the Examiner advised Applicant that the response would not be entered because it failed to place the application in condition for allowance. Applicant filed another response on February 17, 2006, but once again this reply failed to place the application in condition for allowance. No further reply with an extension of time under 37 CFR 1.136(a) having been received, the above-identified application became abandoned on March 31, 20046 A Notice of Abandonment was mailed on August 7, 2006. Applicant filed a petition to withdraw the holding of abandonment on August 18, 2006, as well as a petition to revive under 37 CFR 1.137(a) on September 28, 2006. Both petitions were dismissed in a

decision mailed on October 16, 2006. Applicant filed a renewed petition October 23, 2006. However, the petition was dismissed in a decision mailed on January 16, 2007. Applicant then filed a renewed petition on January 30, 2007, which was dismissed in a decision mailed on March 26, 2007. On April 11, 2007, applicant filed a Notice of Appeal, in response to the March 26, 2007 decision. However, because the Notice of Appeal was not accompanied by a renewed petition under 37 CFR 1.137(b), the Notice of Appeal was not entered. Applicant then filed a request for a refund of the previously paid petition fees, which was dismissed in a decision mailed on March 12, 2008. Applicant was instructed that the application could still be revived if he filed a renewed petition under 37 CFR 1.137(b).

Applicant has filed a renewed petition under 37 CFR 1.137(b). The petition fee was previously paid on January 30, 2007. The required reply in the form of a Notice of Appeal was previously filed on April 11, 2007.

Please be advised that the two month period for filing an appeal brief (accompanied by the $255 fee) runs from the date of this decision.

The application is being forwarded to Group Art Unit 3683 to await applicant's submission of the appeal brief.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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THE HT THAN LAW GROUP
WATERFRONT CENTER SUITE 560
1010 WISCONSIN AVENUE NW
WASHINGTON DC 20007

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Adams, et al.	:	
Application No. 10/725,237	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. BIC-021	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 17, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed October 17, 2008. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on January 18, 2009. A Notice of Abandonment was mailed on April 27, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

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 $1110 extension of time fee submitted with the petition on June 17, 2009 was subsequent to the maximum period obtainable for reply (April 17, 2009), this fee has been refunded to petitioner's Deposit Account No. 50-1980.

The application is being forwarded to Group Art Unit 1795 for consideration of the Amendment, filed June 17, 2009.

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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JUN 21 2005

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

In re Application of	:
Kenneth Newman et al	:
Serial No.: 10/725,246	: PETITION TO MAKE SPECIAL
Filed: December 1, 2003	:
Attorney Docket No.: 03269/100M292	:

This is in response to applicants' petition filed May 25, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, 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, 571-273-8300.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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DEC 1 0 2007

OFFICE OF PETITIONS

In re Application of
Necsoiu et al.
Application No. 10/725,249
Filed: December 1, 2003
Title: Information Sharing System for Geographical Data

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 21, 2007.

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

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of June 7, 2006. An amendment was filed on October 5, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on December 20, 2006 which set an extendable reply period of one month. A reply and request for one month extension of time were submitted on March 6, 2007. This application was held abandoned on February 20, 2007. A Notice of Abandonment was mailed on July 27, 2007stating that the reply submitted on March 6, 2007 was untimely.

Petitioner contends the above-identified application was improperly held abandoned. Petitioner acknowledges that the reply submitted on March 6, 2007 contained a one month request for extension of time. However, petitioner maintains that a general authorization was also provided to charge any fees which may be required. Petitioner has also provided a deposit account statement for March 2007 which establishes there was sufficient funds in deposit account no. 50-2148 to charge a two month extension of time. Thus, petitioner argues the reply submitted on March 6, 2007 was timely.

Pursuant to 37 CFR 1.136(a)(3), a written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to

charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in §1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission.

A review of the record shows that a general authorization was included on the request for extension of time submitted on March 6, 2007. Further review of the record shows a general authorization was present on filing of the application papers on December 1, 2003.

Accordingly, the reply submitted on March 6, 2007 is deemed timely.

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

This application is being referred to Technology Center AU 2161 for appropriate action in the normal course of business on the reply received on March 6, 2007.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 16 2006

~~MAY 16 2006~~ VOID

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

MILLEN WHITE ZELANO & BRANNIGAN, PC
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Teresa Mujica-Fernaud et al	:
Serial No.: 10/725,349	: PETITION DECISION
Filed: December 2, 2003	:
Attorney Docket No.: MERCK-2805	:

This is in response to the petition under 37 CFR 1.144, filed January 13, 2006, requesting withdrawal of a restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained claims numbered 1-33. In a first Office action, mailed March 7, 2005, the examiner set forth a restriction requirement, as follows:

> Group I, claims 1-7, drawn to compounds, compositions and method if making;
> Group II, claims 8-21, 24-27 and 30 drawn to methods of use;
> Group III, claim 22, drawn to a composition with additional ingredient;
> Group IV, claim 23, drawn to a kit;
> Group V, claim 28, drawn to food equipment;
> Group VI, claims 29 and 31-32, drawn to a cosmetic composition;
> Group VII, claim 33, drawn to a compound of Formula VI.

The examiner reasoned that the Groups were drawn to different classes of invention and thus independent and distinct. The examiner also argued that there were several methods of use and that there was a burden on the Office to examine all of them. The examiner also advised of rejoinder if product claims were elected and found allowable.

Applicants replied on March 23, 2005, electing Group I, with traverse, and acknowledging that rejoinder would be proper when the product claims were found allowable.

The examiner mailed a new Office action to applicants on April 21, 2005, noting the traversal and maintaining that the requirement for the reasons of record and making it Final. However, the method claims of Group II were rejoined based on allowability of the composition claims. The

requirement was also modified by holding that claim 24 should have been grouped with claim 22 and claim 30 should have been grouped with claim 29. Claims 8-21 and 25-27 were then rejected under 35 U.S.C. 112, first paragraph, as lacking enablement.

Applicants replied on July 21, 2005, by adding claim 34 and responding to the examiner's maintaining the restriction requirement Final arguing the requirement improper based on combination-subcombination relationship. Applicants also argued the rejection of record.

The examiner mailed a new non-Final Office action to applicants on October 27, 2005, maintaining the restriction requirement and maintaining the rejection under 35 U.S.C. 112, first paragraph, for lack of enablement for claims 8-13, 17-20 and 26-27.

Applicants replied on January 13, 2006, by filing an amendment canceling claims 8-10, 12-13, 17, 19-20 and 26-28, and by amending claims 18 and 21 and responding to the rest of the Office action properly. This petition was filed concurrently, requesting withdrawal of the restriction requirement with respect to claims 22-25 and 28-32.

The examiner mailed a non-Final Office action to applicants on May 2, 2006, maintaining the rejection of claims 11, 14-16, 18 and 20 under 35 U.S.C. 112, first paragraph, for lack of enablement.

DISCUSSION

Applicants argue in their petition that claims 22-25 and 28-32 are improperly withdrawn by restriction. Applicants argue that these claims are in a combination-subcombination relationship with claims 1, 7 or 11 from which they depend and that the examiner has failed to meet the requirements of two-way distinctness for maintaining such a restriction requirement.

A review of the examiner's original requirement shows that these claims were placed in Groups III –VII and classified in various other classes and were held as separate and distinct inventions based, in part, on such classification and that they related to distinct products, not just the basic chemical compound or composition.

A review of the withdrawn claims still pending, shows that claims 22 and 23 are directed to the pharmaceutical composition (of claim 7) combined with a second (unnamed) pharmaceutically active compound. Any patentability of the combination cannot be ascribed to the second component, but lies solely with the primary compound which the examiner has determined to be patentable. The patentability of the subcombination compound imparts patentability to the combination of the compound and additional component insofar as prior art is concerned. Thus no two-way distinctness is or can be shown. The restriction of these claims is withdrawn.

In like manner claims to a food supplement comprising the compound (claim 29) or a cosmetic composition containing the compound (claims 30-32) are also combinations in which patentability over the prior art is dependent solely on the subcombination compound's patentability over the prior art. No two-way distinctness has or can be shown to justify such restriction. The restriction of these claims is withdrawn.

However claims 24 and 25 which depend from claim 11 do not appear to fit the above criteria. Claim 11 is a method of treating various conditions or diseases using the pharmaceutical composition of claim 7. Claim 25 is directed to performing radiotherapy. Radiotherapy is a treatment which can be administered in the presence or absence of the pharmaceutical composition, thus showing two-way distinctness and proper restriction. Claim 24 comprises administering additional compounds, such as modulators and inhibitors. These appear to be administered separately from the pharmaceutical composition and to be unrelated to its use. No connection or coaction between the additional compounds and the basic pharmaceutical composition is stated. Thus two-way distinctness is evident in that these compounds do not depend on the pharmaceutical composition for patentability as they are separately patentable. For this reason these claims are not rejoined.

DECISION

The petition is **GRANTED-IN-PART.** Claims 22-23 and 28-32 are rejoined as improperly restricted based on lack of two-way distinctness between the combination and subcombination. Claims 24-25 are not rejoined as being properly restricted based on two-way distinctness between combination and subcombination.

In view of this decision the application will be returned to the examiner for preparation of a new action on the merits not inconsistent with this decision. The Office action mailed May 2, 2006, is vacated as incomplete in view of this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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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
DAHLIN, et al.
Application No. 10/725,357
Filed: December 1, 2003
Attorney Docket No. 1039-0090

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).

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 April 30, 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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ROYLANCE, ABRAMS, BERDO & GOODMAN,
L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Park et al. :
Application No. 10/725,371 :
Filed: December 3, 2003 : ON PETITION
Attorney Docket Number: 45265 :

This is a decision on the Petition to Withdraw Holding of Abandonment (37 C.F.R. 1.181), or in the Alternative, Petition to Revive Unintentionally Abandoned Application (37 C.F.R. 1.137(b)), filed December 12, 2005. The delay in treating the petitions is regretted.

The petition under 37 C.F.R. 1.181 is **granted**.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 18, 2005. The Office action set a shortened statutory reply period of one (1) month, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 19, 2005. A Notice of Abandonment was mailed November 30, 2005.

The instant petition

Applicant files the instant petition to withdraw the abandonment of the application and provides that a timely response to the non-final office action was filed. In support of this assertion, Applicant files a copy of a return-receipt postcard acknowledging receipt of an amendment by this Office in application serial number 10/752,371. A review of the application papers in application serial no. 10/752,371 reveal that no amendment is present in the application that was filed on or about July 15, 2005; however, a copy of the amendment is included with the petition.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

In view of the above, the holding of abandonment of the above-identified application is hereby withdrawn. The petition fee has been refunded to Applicant's deposit account as authorized in the instant petition.

The application is being referred to Technology Center Art Unit 3677 for processing of the amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061026

DATE : October 26, 2006

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction on Patent No.: 6,991,209

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 dependency of claims 26 and 27 would change the scope of the claims (corrections 2 and 3 on the list)

Eric Keasel

SPE: Eric Keasel **Art Unit** 3753

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Zoller, et al.	:	
Filed: December 3, 2003	:	ON PETITION
Application No. 10/725,418	:	
Atty. Dkt. No.: 100337.54074D9	:	

This decision is in response to the "Petition," filed October 12, 2004, requesting that the above-identified application be accorded a filing date of December 3, 2003.

The petition is hereby **GRANTED**.

The above-identified application was filed December 3, 2003. The Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed August 10, 2004 indicated, *inter alia*, that Figure 10B as described in the application appeared to have been omitted from the application as filed.

The Notice permits applicant to either: (1) establish prior receipt in the PTO of page 7 of the specification; (2) submit the omitted page of specification and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)); or (3) take no action thereby constructively accepting the application filed as in the USPTO without the omitted item. Failure to take any action requires amendment of the specification to cancel reference to the omitted item.

Petitioners contend that Figure 10 submitted with the application contains 12 panels identified as panels 10A through 10L. Petitioners further contend that the reference to Figure 10B in the application should have instead referred to Panel B on Figure 10.

Petitioners are arguing that no drawings were actually omitted from the application as filed but instead the specification misidentified the figure in question.

A review of the original sheets of drawings filed confirms that the drawings included a sheet labeled Figure 10. Said figure includes 12 panels. Since it is obvious from the petition that no drawings were actually missing on December 3, 2003, and that applicants do not intend to file any additional sheets of drawings, the application will be processed using the drawings filed on December 3, 2003.

However, the Notice was correct in advising applicant that Figures 10B appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn.

The petition fee will not be refunded, since the petition was not necessary to correct any PTO error.

Petitioners are advised to submit a preliminary amendment to the specification clarifying the references to Figure 10 and the panels depicted thereon prior to the issuance of the first Office action on the merits.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of December 3, 2003, using the 15 sheets of drawings filed on that date.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,442	12/03/2003	M. Albert Capote	90060	5385

20529 7590 02/22/2010
THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

EXAMINER
MALEVIC, DJURA

ART UNIT	PAPER NUMBER
2884	

MAIL DATE	DELIVERY MODE
02/22/2010	PAPER

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

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

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In re Patent No. CAPOTE ET AL. Issue Date: 29 May 2007 Appl No.: 10/725,442 Filed: December 03, 2003 For: GAMMA RAY DETECTOR MODULES	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed 21 October 2008 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/David P. Porta/

David P. Porta
Supervisory Patent Examiner
Art Unit 2884
Technology Center 2800

THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

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: February 22, 2010
TO: Certificates of Correction Branch
FROM: David P. Porta
SPE, Art Unit 2884
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,223,987 as specified on the attached Certificate.

/David P. Porta/
Supervisory Patent Examiner, Art Unit 2884

David P. Porta, SPE
Art Unit 2884

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,223,981
Patented: 29 May 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

M. Albert Capote	Carlsbad, CA
Howard A. Lenos	Murrieta, CA
Sachidananda R. Babu	

/David P. Porta/

David P. Porta
Supervisory Patent Examiner
Art Unit 2884

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Mark Zoller	: DECISION ON REQUEST FOR
Patent Number	: 7601513	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/725,473	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1511** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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DEC 27 2004

OFFICE OF PETITIONS

In re Application of :
Zoller, et al :
Application No. 10/725,475 :
Filed: December 3, 2003 :
Attorney Docket No. 100337.54074D8 :

ON PETITION

This is a decision on the petition filed October 12, 2004, requesting that the above-identified application be accorded a filing date of December 3, 2004, including a complete Figure 10.

The application was filed on December 3, 2003. However, on August 10, 2004, the Office of Initial Patent Application mailed a "Notice To File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figure 10b as described in the specification appears to have been omitted.

In response, on October 12, 2004, the instant petition was submitted. Petitioner asserts Figure 10 was complete as submitted on December 3, 2003.

Petitioner states, "Figure 10 as-filed with this application contains 12 panels which are identified at paragraph 0263 of this application as panels 10A through 10L. Each of these panels are clearly identified and described at paragraph 0263 of the as-filed specification. Therefore, the reference to Figure 10B at page 10, paragraph 0047, in the Brief Description of the Figures in actuality was intended to refer to "Panel B" on Figure 10, which includes 12 panels which should have been labeled as Panels A through L on the single page Figure 10 filed with this application.

Additionally, petitioner has submitted a "Formal version of Figure 10 wherein the panel B legend (as well as panels C through L) are more clearly labeled. The [Petitioner] respectfully avers to the fact that this figure corresponds identically to Figure 10

originally submitted with this application, except for the fact that it is a more legible version wherein each of Panels A thorough L are explicitly identified." Furthermore, petitioner has submitted a "Second Preliminary Amendment," that corrects paragraph 0047 to properly identify the separate panels in Figure 10.

In view of the above, it appears that the drawing of Figure 10 was complete as filed on December 3, 2003, but mislabeled on the drawing sheet and misidentified in paragraph 0047 of the specification by applicants. Since it is now clear that the drawing of Figure 10 was complete as filed on December 3, 2003, albeit mislabeled and misidentified, the complete Figure 10 may be considered as filed with the application on December 3, 2003.

The petition is granted.

Please note, the $130.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of December 3, 2003, using the Formal version of Figure 10, submitted October 12, 2004.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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WASHINGTON DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Zoller, et al :
Application No. 10/725,475 : ON PETITION
Filed: December 3, 2003 :
Attorney Docket No. 100337.54074D8 :

This is a decision on the petition filed October 12, 2004, requesting that the above-identified application be accorded a filing date of December 3, 2004, including a complete Figure 10. The decision on petition, mailed December 27, 2004, is hereby vacated and replaced by the instant decision.

The application was filed on December 3, 2003. However, on August 10, 2004, the Office of Initial Patent Application mailed a "Notice To File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figure 10b as described in the specification appears to have been omitted.

In response, on October 12, 2004, the instant petition was submitted. Petitioner asserts Figure 10 was complete as submitted on December 3, 2003.

Petitioner states, "Figure 10 as-filed with this application contains 12 panels which are identified at paragraph 0263 of this application as panels 10A through 10L. Each of these panels are clearly identified and described at paragraph 0263 of the as-filed specification. Therefore, the reference to Figure 10B at page 10, paragraph 0047, in the Brief Description of the Figures in actuality was intended to refer to "Panel B" on Figure 10, which includes 12 panels which should have been labeled as Panels A through L on the single page Figure 10 filed with this application."

Additionally, petitioner has submitted a "Formal version of Figure 10 wherein the panel B legend (as well as panels C through

L) are more clearly labeled. The [Petitioner] respectfully avers to the fact that this figure corresponds identically to Figure 10 originally submitted with this application, except for the fact that it is a more legible version wherein each of Panels A thorough L are explicitly identified." Furthermore, petitioner has submitted a "Second Preliminary Amendment," that corrects paragraph 0047 to properly identify the separate panels in Figure 10.

In view of the above, it appears that the drawing of Figure 10 was complete as filed on December 3, 2003, but mislabeled on the drawing sheet and misidentified in paragraph 0047 of the specification by applicants. Since it is now clear that the drawing of Figure 10 was complete as filed on December 3, 2003, albeit mislabeled and misidentified, the complete Figure 10 may be considered as filed with the application on December 3, 2003.

The petition is granted.

The Examiner shall review, during the examination process, the sufficiency of the corrections made to the "Formal version of Figure 10" as it relates to the corrected description submitted in the "Second Preliminary Amendment."

Please note, the $130.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of December 3, 2003, using the Formal version of Figure 10, submitted October 12, 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

P.L.1

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CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
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OFFICE OF PETITIONS

In re Application of
Mark Zoller, Xiaodong Li, Lena Staszewski, Shawn O'Connell, Sergey Zozulya, Jon Adler, Hong Xu and Fernando Echeverri
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket Number: P 0291566
Title of Invention: T1R HETERO-OLIGOMERIC TASTE RECEPTORS AND CELL LINES THAT EXPRESS SAID RECEPTORS AND USE THEREOF FOR IDENTIFICATION OF TASTE COMPOUNDS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

#54074 US

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 23, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Robin Teskin attest a copy of the application was sent to non-signing inventor's last known address and non-signing inventor's legal representative. Additional attempts to contact the non-signing inventors went unanswered. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of: :
Zoller et al. :
Application No. 10/725,488 : DECISION ON
Filed: December 3, 2003 : PETITION
For: FUNCTIONAL ASSAYS FOR :
IDENTIFYING COMPOUNDS THAT MODULATE:
T1R1/T1T3 (unami) TASTE :

This is a decision on the Petition filed October 12, 2004. The Petition requests the application be accorded a filing date of December 10, 2003, including Figure 10B described in the specification.

The application was filed on December 3, 2003. However, on April August 10, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of December 3, 2003, and advising applicants that Figure 10b described in the specification appeared to have been omitted from the application.

In response, the present petition was filed wherein Applicant argues that the reference to Figure 10b in the specification was "intended to refer to 'Panel B' on [the] Figure 10" that was originally filed with the application on December 3, 2003. *Petition* at p.1-2. The petition is accompanied by a "Formal version of Figure 10 wherein the panel B legend (as well as Panels C through L) are more clearly labeled." Applicant asserts that the "Formal version of Figure 10" filed with the instant petition does not introduce new matter. *Petition* at p.2.

Applicant is advised that a petition is not required to add the drawing Figure. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Proposed drawing corrections are considered by the primary examiner in due course. See MPEP 608.02(h).

Regarding the Notice, the specification filed on December 3, 2003, describes Figure 10b. Since the drawings filed on December 3, 2003, did not include a figure labeled "Fig 10b", the "Notice" mailed August 10, 2004, was correct in advising applicants that drawing Figure 10b appeared to have been missing from the application. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is dismissed.

The petition fee is required, since the petition was not necessary to correct any PTO error.

The application file is an Image File Wrapper ("IFW"), and as such, no forwarding of the file is necessary. An electronic mail message will be sent to the Office of Initial Patent Examination for further processing with a filing date of December 3, 2003, using the drawings filed on that date, and for processing the response to the Notice filed with the instant petition.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

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9th Floor
ARLINGTON VA 22201-2909

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OFFICE OF PETITIONS

In re Application of Stoner, et al. Application No.: 10/725,505 Filed: December 3, 2003 Attorney Docket No.: COS97083C1	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned as a result of applicants' failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal, filed May 2, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 3, 2008. *See* MPEP 1215.04.

Applicants have submitted an Appeal Brief accompanied by the $540.00 fee, an acceptable statement of the unintentional nature of the delay in filing the Appeal Brief, and the $1,620.00 petition fee.

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.

After the mailing of this decision, the file will be forwarded to Technology Center AU 2179 for consideration of the Appeal Brief, filed January 8, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

CC: PHOUPHANOMKETH DITTHAVONG
918 PRINCE STREET
ALEXANDRIA VA 22314

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

Mail Date: 04/28/2010

Applicant	: Raymond K. Orr	: DECISION ON REQUEST FOR
Patent Number	: 7622824	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/725,526	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **651** 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 : 03-12-10

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10725526 Patent No.: 7622824

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: All changes have been approved since they do not introduce new matter or change the scope of the claims.

Jared Fureman
SPE

2836
Art Unit

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WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Fast et al.	:	
Application No. 10/725,534	:	ON PETITION
Filed: December 3, 2003	:	
Attorney Docket No. P68996US2	:	

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

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase
Petitions Examiner
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAIL

SEP 28 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
McClurg, et al. :
Application No. 10/725,537 :
Filed: December 3, 2003 :
For: SYSTEM FOR OBTAINING PRINT AND :
OTHER HAND CHARACTERISTIC :
INFORMATION USING A NON-PLANAR
PRISM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed August 2, 2004 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 from one of the co-inventors, in support of the petition, 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.

Kenneth A. Wieder

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

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Paper No. 090204

SEP - 8 2004

STERNE, KESSLER, GOLDBSTEIN & FOX PLLC
1100 NEW YORK AVE., N.W.
WASHINGTON, DC 20005-3934

In re Application of:	:	
McClurg et al.	:	DECISION ON PETITION
Serial No.: 10/725,539	:	TO MAKE SPECIAL
Filed: December 3, 2003	:	
Attorney Docket No.: 1823.0820003	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 3, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition a statement inventor, John F. Carver, 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 Lissi Marquis at (571) 272-1596.

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
McClurg, et al. :
Application No. 10/725,543 : DECISION ON PETITION
Filed: December 3, 2003 : TO MAKE SPECIAL
For: SYSTEM HAVING A ROTATING OPTICAL :
SYSTEM AND A NON-PLANAR PRISM THAT :
ARE USED TO OBTAIN PRINT AND OTHER
HAND CHARACTERISTIC INFORMATION

This is a decision on the petition to make special filed August 3, 2004 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 from one of the co-inventors, in support of the petition, 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.

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

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ALEXANDRIA VA 22307

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OFFICE OF PETITIONS

In re Application of
Ephraim Gutmark and Christian Oliver Paschereit
Application No. 10/725,562
Filed: December 3, 2003
Attorney Docket No. 003-102
Title: METHOD AND DEVICE FOR AFFECTING THERMOACOUSTIC OSCILLATIONS IN COMBUSTION SYSTEMS

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 October 4, 2004.

On December 3, 2003, the application was deposited, identifying Ephraim Gutmark and Christian Oliver Paschereit as joint inventors. No oath or declaration was included on filing. On March 2, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the associated fee, the surcharge associated with the late submission of an oath or declaration, a declaration of facts, a declaration which has been executed by joint inventor Gutmark, and the last known address of the non-

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.

signing inventor. Petitioner has also included a five-month extension of time to make timely this response (October 2, 2004 fell on a Saturday).

Petitioner has met each of the 5 requirements above.

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 3700 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
Ephraim Gutmark and Christian Oliver Paschereit

Application No. 10/725,563
Filed: December 3, 2003
Attorney Docket No. 003-101
Title: METHOD AND DEVICE FOR AFFECTING THERMOACOUSTIC OSCILLATIONS IN COMBUSTION SYSTEMS

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 October 4, 2004.

On December 3, 2003, the application was deposited, identifying Ephraim Gutmark and Christian Oliver Paschereit as joint inventors. No oath or declaration was included on filing. On March 2, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the associated fee, the surcharge associated with the late submission of an oath or declaration, a declaration of facts, a declaration which has been executed by joint inventor Gutmark, and the last known address of the non-

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.

signing inventor. Petitioner has also included a five-month extension of time to make timely this response (October 2, 2004 fell on a Saturday).

Petitioner has met each of the 5 requirements above.

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 3700 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.

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OFFICE OF PETITIONS

In re Application of
Ephraim Gutmark and Christian Oliver Paschereit

Application No. 10/725,564
Filed: December 3, 2003
Attorney Docket No. 003-099
Title: METHOD AND DEVICE FOR AFFECTING THERMOACOUSTIC OSCILLATIONS IN COMBUSTION SYSTEMS

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 October 5, 2004.

On December 3, 2003, the application was deposited, identifying Ephraim Gutmark and Christian Oliver Paschereit as joint inventors. No oath or declaration was included on filing. On March 15, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the associated fee, the surcharge associated with the late submission of an oath or declaration, a declaration of facts which establishes that a complete copy of the application was sent to the last known address of the non-

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.

signing inventor, a declaration which has been executed by joint inventor Gutmark, and the last known address of the non-signing inventor. Petitioner has also included a five-month extension of time to make timely this response.

Petitioner has met each of the 5 requirements above.

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 3700 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
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Paper No. None

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OFFICE OF PETITIONS

In re Application of
Klaus Doebbeling, Ephraim Gutmark and
Christian Oliver Paschereit

Application No. 10/725,565
Filed: December 3, 2003
Attorney Docket No. 003-100
Title: COMBUSTION SYSTEM

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 October 4, 2004.

On December 3, 2003, the application was deposited, identifying Klaus Doebbeling, Ephraim Gutmark and Christian Oliver Paschereit as joint inventors. No oath or declaration was included on filing. On March 3, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the associated fee, the surcharge associated with the late submission of an oath or declaration, a declaration of facts, a declaration which has been executed by joint inventors Doebbeling and Gutmark, and the last known address of the non-signing inventor. Petitioner has also included a five-month extension of time to make timely this response (October 3, 2004 fell on a Sunday).

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.

Petitioner has met each of the 5 requirements above.

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 3700 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
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OFFICE OF PETITIONS

In re Patent Number 7,178,235	:
Issued February 20, 2007	:
David R. ROLSTON et al	: DECISION ON PETITION
Application No. 10/725,566	: UNDER 37 CFR 1.78(a)(3)
Filed: December 3, 2003	:
Attorney Docket No. 16005-3US-1 AD/ad	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 21, 2007, 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 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 Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

First, 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, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Second, 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).

The statement "This application is also related to commonly assigned co-pending applications filed herewith bearing application number 10/625,905 titled: "Optical Connector Assembly" and 10/625,901 titled: "Optical Ferrule", the specifications of which are hereby incorporated by reference" will require review by the examiner for the issue of new matter in any renewed petition.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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 questions concerning this matter may be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent Number 7,178,235 :
Issued February 20, 2007 :
David R. ROLSTON et al : DECISION ON PETITION
Application No. 10/725,566 : UNDER 37 CFR 1.78(a)(3)
Filed: December 3, 2003 :
Attorney Docket No. 16005-3US-1 AD/ad

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 12, 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 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 Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

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).

Petitioner now inserts the language, "this patent application is a continuation-in-part of US non- provisional Patent Application No. 10/625,906". The language is contrary to the original and sworn to language at page 1, paragraph 1, and "This is the first application filed for the present invention". Petition, in their response should explain why the added continuation data is not contrary language distinct from the original statement. The language "This application is related to US non-provisional Patent application 10/625,906, filed July 24, 2003." would not be contrary language.

Petitioner request reconsideration on the basis that the amendment filed December 3, 2003 application contained the incorporation by reference language now objected to. Specifically petitioner refers to the language, "This application is related to commonly assigned co-pending applications filed herewith bearing agent docket numbers 16005-1US titled "Optical Connector Assembly" and 16005-2US titled "Optical Ferrule", the specifications of which are hereby incorporated by reference." The statement "This application is also related to commonly assigned co-pending applications filed herewith bearing application number 10/625,905 titled: "Optical Connector Assembly" and 10/625,901 titled: "Optical Ferrule", the specifications of which are hereby incorporated by reference", was not originally filed. The insertion of attorney docket numbers followed by the phrase "the specifications of which are hereby incorporated by reference, does not permit petitioner to insert application numbers merely because they are required by the examiner and the Office. A subsequent insertion of the application numbers would require deletion of the incorporation by reference. Finally, it is not evidently clear that the original attorney docket numbers in the original specification are the same attorney docket numbers submitted on the transmittal sheets of application numbers 10/625,905 and 10/625,901.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

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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) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CVA CANADA

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OFFICE OF PETITIONS

In re Patent Number 7,178,235
Issued February 20, 2007
David R. ROLSTON et al
Application No. 10/725,566
Filed: December 3, 2003
Attorney Docket No. 16005-3US-1 AD/ad

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 12, 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 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 Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

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).

Petitioner now inserts the language, "this patent application is a continuation-in-part of US non- provisional Patent Application No. 10/625,906". The language is contrary to the original and sworn to language at page 1, paragraph 1, and "This is the first application filed for the present invention". Petition, in their response should explain why the added continuation data is not contrary language distinct from the original statement. The language "This application is related to US non-provisional Patent application 10/625,906, filed July 24, 2003." would not be contrary language.

Petitioner request reconsideration on the basis that the amendment filed December 3, 2003 application contained the incorporation by reference language now objected to. Specifically petitioner refers to the language, "This application is related to commonly assigned co-pending applications filed herewith bearing agent docket numbers 16005-1US titled "Optical Connector Assembly" and 16005-2US titled "Optical Ferrule", the specifications of which are hereby incorporated by reference." The statement "This application is also related to commonly assigned co-pending applications filed herewith bearing application number 10/625,905 titled: "Optical Connector Assembly" and 10/625,901 titled: "Optical Ferrule", the specifications of which are hereby incorporated by reference", was not originally filed. The insertion of attorney docket numbers followed by the phrase "the specifications of which are hereby incorporated by reference, does not permit petitioner to insert application numbers merely because they are required by the examiner and the Office. A subsequent insertion of the application numbers would require deletion of the incorporation by reference. Finally, it is not evidently clear that the original attorney docket numbers in the original specification are the same attorney docket numbers submitted on the transmittal sheets of application numbers 10/625,905 and 10/625,901.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

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Any questions concerning this matter may be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: OGILVY RENAULT LLP
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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
William C. Shelton :
Application No. 10/725,589 : ON PETITION
Filed: December 3, 2003 :
Attorney Docket No. 3843.00 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 14, 2005.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

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OFFICE OF PETITIONS

In re Application of	:	
Elliot Rudell	:	
Application No. 10/725,655	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. 155660-0226	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 23, 2004.

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

The application is being forwarded to Technology Center AU 3712 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

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SUITE # 101
MESA AZ 85201

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OFFICE OF PETITIONS

In re Application of
Robert D. Camiano et al.
Application No. 10/725,658
Filed: December 1, 2003
Attorney Docket No.: BUCK-10097
Title: CORDLESS POWER TOOL AND MULTI-PURPOSE WORKSTATION SYSTEM

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

This is a decision on the petition filed October 25, 2004, 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 Notice of Missing Parts (notice), mailed March 2, 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 May 3, 2004.

With the petition, Petitioner has submitted the petition fee, as well as the substitute specification as required by the notice of March 2, 2004.

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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United States Patent and Trademark Office
P.O. Box 1450
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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OCT 13 2006

OFFICE OF PETITIONS

In re Application of	:
Niranjan N. Segal et al	:
Application No. 10/725,661	: DECISION GRANTING PETITION
Filed: December 2, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. CE12199N/10-195	:

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed July 8, 2005, which set a one month extendable time period for reply. Accordingly, a reply was due on or before August 8, 2005 or on or before January 8, 2006 with the appropriate extension of time fee. A Notice of Abandonment was prematurely mailed on December 28, 2005, as the extendable period for reply had not yet expired. Nevertheless, since a reply and appropriate extension of time fee were not received prior to the extendable period for reply, the date of abandonment of this application is August 9, 2005.

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

Petitioner is advised that his registration number should appear on all papers filed in the Office.

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

This matter is being referred to Technology Center AU 2686 for appropriate action in the normal course of business on the reply received January 24, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

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OFFICE OF PETITIONS

In re Application of :
Melton et al. :
Application No. 10/725,671 :
Filed: December 2, 2003 :
Attorney Docket Number: :
31592-1001 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 31, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 18, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 19, 2005. A Notice of Abandonment was mailed February 8, 2006.

Included with the petition is an Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3748 for processing of the Reply/Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,677	12/02/2003	Sharon L. Apichella	SUTT-001	5056

7590 11/25/2008
Harding, Earley, et al
86 The Commons At Valley Forge East
1288 Valley Forge Rd., PO Box 750
Valley Forge, PA 19482-0750

EXAMINER
COLLINS, DOLORES R

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
11/25/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Harding, Earley, et al
86 The Commons At Valley Forge East
1288 Valley Forge Rd., PO Box 750
Valley Forge PA 19482-0750

In re Application of APICHELLA, SHARON L. et al Serial No.: 10/725,677 Filed: Feb. 20, 2003 Docket: SUTT-011 Title: METHOD AND APPARATUSES FOR TEACHING A METACOGNITIVE APPROACH TO WRITING	Petition to Withdraw Abandonment

This is a decision to the petition filed Nov. 10, 2008 requesting withdrawal of the holding of abandonment. This petition is being considered pursuant to 37 CFR § 1.181. No fees are required.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely file a response to the Non-Final Rejection mailed on Apr. 15, 2008 which set forth a three-month period for reply. Notice of abandonment was mailed on Oct. 23, 2008.

Petitioner asserts that a timely response to the Non-Final Rejection was filed on Oct. 20, 2008 with three-month extension of time fee. The record does show a response with a request of three months extension of time was filed on Oct. 20, 2008. A certificate of mailing dated Oct. 15, 2008 was also presented with the amendment. Accordingly, the response is considered timely and the Notice of Abandonment is, therefore, hereby vacated. There is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Oct. 23, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3711 for consideration of amendment filed on Oct. 20, 2008.

Petition Granted.

Robert Olszewski, Director
Technology Center 3700

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P.O. Box 1450
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FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of
Dennis M. Lengyel
Application No. 10/725,682
Filed: December 2, 2003
Attorney Docket No. NUK 2 00446

DECISION ON PETITION

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

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

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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SEP 1 7 2008

OFFICE OF PETITIONS

In re Application of :
Chappuis, James L. :
Application No. 10/725,683 : ON PETITION
Filed: December 2, 2003 :
Attorney Docket No. 050313-1130 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2008, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely reply to the Office action mailed December 6, 2007, which set a shortened statutory period for reply of one (1) month. A reply was due on or before January 6, 2008. A Notice of Abandonment was mailed on September 2, 2008.

Petitioner asserts that the Office action mailed December 6, 2007 was never received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

The petition to revive under 37 CFR 1.137(b) is hereby dismissed as moot.

As petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee, the $770.00 petition fee submitted will be credited to petitioner's deposit account as requested.

This application is being referred to the Technology Center technical support staff of Art Unit 3733 for re-mailing the Office action of December 6, 2007. The period for reply will run from the mailing date of the Office action.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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SP-TI-3-1
CORNING NY 14831

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SEP 1 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Jimmy Henningsen	:	
Application No. 10/725,695	:	DECISION ON PETITION
Filed: December 1, 2003	:	UNDER 37 CFR 1.55(c)
Attorney Docket No.: SP03-192	:	

This is a decision on the petition under 37 CFR 1.55 (c), filed March 27, 2006, requesting acceptance of an unintentionally delayed priority claim pursuant to 37 CFR 1.55(c) to PCT/DK03/00473, filed July 4 , 2003.

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

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

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

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

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The 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 item (2) above. In this regard, 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). 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.

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)."

Any future petition should include a supplemental ADS correcting the above deficiency, along with a "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
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 Charlema R. Grant at (571) 272- 3215.

Frances Hicks
Petitions Examiner
Office of Petitions

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CORNING NY 14831

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OFFICE OF PETITIONS

In re Application of	:	
Henningsen	:	
Application No. 10/725,695	:	DECISION ON PETITION
Filed: December 1, 2003	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. SP03-192	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed October 6, 2006, and supplemented on July 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign PCT/DK03/00473, filed July 4, 2003.

The petition is **GRANTED**.

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

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

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

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

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the 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.

This application was filed on December 1, 2003, which is after November 29, 2000 and within 12 months of July 4, 2003 (the filing date of the foreign application to which benefit is now being claimed). On July 9, 2007 a supplemental Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received with the original petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) 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. § 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 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 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 foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2839 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d). Thereafter the application will be forwarded to the Office of Patent Publication.

Any inquiries directly pertaining to this matter may be directed to Charlema R. Grant at (571) 272-3215.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/725,695	12/01/2003	2839	1600	SP03-192	11	3

CONFIRMATION NO. 2548

CORRECTED FILING RECEIPT

OC000000024772901

22928
CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

Date Mailed: 07/11/2007

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

Applicant(s)

Jimmy Henningsen, Naestved, DENMARK;

Assignment For Published Patent Application

Corning Gilbert Inc.

Power of Attorney: The patent practitioners associated with Customer Number **22928**.

Domestic Priority data as claimed by applicant

Foreign Applications

DENMARK PCT/DK03/00473 07/04/2003

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 US10/725,695

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COAXIAL CONNECTOR AND METHOD

Preliminary Class

439

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/13/09 Paper No.: _____

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10725696 Patent No.: 7265336

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 Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

Georgia Y Epps
SPE

2878
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

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 07/09/2010

Applicant	: Keith Eric Neuendorff	: DECISION ON REQUEST FOR
Patent Number	: 7646722	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/725,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1035** 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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AMS RESEARCH CORPORATION
10700 BREN ROAD WEST
MINNETONKA MN 55343

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DEC 21 2005
OFFICE OF PETITIONS

In re Application of
CHARLES C. KUYAVA et al
Application No. 10/725,711
Filed: December 02, 2003
Attorney Docket No. AMS-176

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 5, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 6, 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 and publication fee; (2) the large entity petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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 documentation 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 Amelia Au at (571) 272-7414.

The application file is being referred to the Office of Patent Publication.

Amelia Au
Petitions Examiner
Office of Petitions

cc: MICHAELE A. HAKAMAKI
Kagan Binder, PLLC
221 Main Street North, Suite 200
Maple Island Building
Stillwater, MN 55082

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Sienel et al.	:	
Application No. 10/725,732	:	ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. 60,246-258/10781	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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 3700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

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MAY 19 2008

In re Application of	:
Lynne Tauchen	:
Application No. 10/725,741	: DECISION GRANTING
Filed: December 2, 2003	: PETITIONS
Attorney Docket No. JET-P001	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2007, to revive the above-identified application. This is also a decision on the petition to expedite filed May 16, 2008.

The petitions are **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 July 10, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management to be processed into a patent.

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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OFFICE OF PETITIONS

DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

In re Application of	:	
Steven R. Lange	:	
Application No. 10/725,744	:	ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. 5589-05201 P1067	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2006, 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 23, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 24, 2006.

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

This matter is being referred to Patent Publication.

Karen Creasy
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

INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Giles R. Frazier	: DECISION ON REQUEST FOR
Patent Number	: 7620695	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/725,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1326** 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OCT 1 8 2006
OFFICE OF PETITIONS

In re Application of :
Sambasivam et al. : DECISION ON PETITION
Application No. 10/725,782 :
Filed: December 1, 2003 :
Attorney Docket No. 42P16313 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on July 28, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on October 29, 2005. A Notice of Abandonment was mailed on July 7, 2006.

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/24/07

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/725788** Patent No.: **7106780**

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

2611
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

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
Croft, et al.	:
Application No. 10/725,816	: DECISION ACCORDING STATUS
Filed: December 2, 2003	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 29939/38936B	:
For: VERSATILE DOG HOUSE	:

This is in response to the petition under 37 CFR 1.47(a), filed December 13, 2004 (certificate of mailing date December 8, 2004).

The petition is granted.

Petitioners have shown that the non-signing inventor, Frederick Cruz, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Russell C. Petersen establishes that the non-signing inventor was successfully mailed the application papers, including the specification, claims, and drawings, but he failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

It is noted that petitioners have still not submitted replacement drawings in response to the June 8, 2004 Notice to File Missing Parts of Nonprovisional Application. An additional extension of time may be required.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Please type a plus (+) inside this box [+]

PTO/SB/05 (03-01)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	9661-043-999	*Total Pages*	117
First Named Inventor or Application Identifier			
Chye			
Express Mail Label No.	EV 335 857 931 US		

APPLICATION ELEMENTS

See MPEP chapters 600 concerning utility patent application contents.

Address to: **Commissioner for Patents**
P.O. Box 1450
Mail Stop PATENT APPLICATION
Alexandria, VA 22313-1450

1. ☒ Fee Transmittal Form
(Submit an original, and a duplicate for fee processing)
2. ☒ Applicant claims Small Entity status, see 37 C.F.R. § 1.27
3. ☒ Specification [Total Pages 66]
(preferred arrangement set forth below, MPEP 1503.01)
- Descriptive title of the Invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R&D
- Reference to Microfiche Appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description of the Invention (including drawings, if filed)
- Claim(s)
- Abstract of the Disclosure
4. ☒ Drawing(s) *(35 USC 113)* [Total Sheets 21]
5. ☒ Declaration [Total Sheets 2]
   a. ☐ Newly executed (original or copy)
   b. ☐ Copy from a prior application (37 CFR 1.63(d))
   (for continuation/divisional with Box 18 completed)
      i. ☐ DELETION OF INVENTOR(S)
      Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76
7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. ☒ Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
   a. ☒ Computer Readable Form (CRF)
   b. ☒ Specification Sequence Listing on:
      i. ☐ CD-ROM or CD-R (2 copies); or
      ii. ☒ paper
   c. ☒ Statement verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement *(when there is an assignee)* ☐ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(i). Applicant must attach form PTO/SB/35 or it's equivalent
17. ☒ Other: Petition for Acceptance of Color Photographs as Formal Drawings Under 37 C.F.R. 1.84 (in duplicate) and 3 color sets of 5 drawing sheets.

16834 U.S.PTO 10/725829 120103

18. If a CONTINUING APPLICATION, *check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:*

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) | of prior application No.: filed

Prior application information: Examiner: Group Art Unit:

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number 20583 *Insert Customer No.* or ☐ Correspondence address below

NAME					
ADDRESS					
CITY		*STATE*		*ZIP CODE*	
COUNTRY		*TELEPHONE*		*FAX*	

Burden Hour Statement: This form is estimated to take 0.2 hours 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.

Express Mail No. EV 335 857 931 US

PENNIE & EDMONDS LLP
COUNSELORS AT LAW
1155 Avenue of the Americas
New York, New York 10036-2711

ATTORNEY DOCKET NO. 9661-043-999 Date: December 1, 2003

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

Sir:

The following utility patent application is enclosed for filing:

Applicant(s): Mee Len Chye
Zeng-Fu Xu
Suk Fong Sin

Executed on:

Title of Invention: Genetically Modified Plants with Heterogenous Proteinase Inhibitors, SaPIN2a or SaPIN2b, and Methods of Use Thereof for the Inhibition of Trypsin- and Chymotrypsin-Like Activities

PATENT APPLICATION FEE VALUE

TYPE	NO. FILED	LESS	EXTRA	EXTRA RATE	FEE
Total Claims	100	- 20	80	$18.00 each	$ 1440
Independent	23	- 3	20	$86.00 each	$ 1720
			Minimum Fee		$ 770
			Multiple Dependency Fee If Applicable ($290.00)		$ 290
				Total	$ 4220
		Applicant qualifies for the 50% Reduction for Independent Inventor, Nonprofit Organization or Small Business Concern			$ 2110
				Total Filing Fee	$ 2110

[ ] **DO NOT PUBLISH**. I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

[x] Priority of application no. 60,429,992 filed on November 29, 2002 is claimed under 35 U.S.C. § 119.

[ ] The certified copy of the priority application has been filed in application no. filed on .

Please charge the required fee to Pennie & Edmonds LLP Deposit Account 16-1150. A copy of this sheet is enclosed.

Respectfully submitted,
Gidon D. Stern by Susie Cheng 46,446
27,469
Gidon D. Stern Reg No.
PENNIE & EDMONDS LLP

Enclosure

This form is not for use with continuation, divisional, re-issue, design or plant patent applications.

Express Mail No. **EV 335 857 931 US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Chye et al.	Confirmation No.:	To Be Assigned
Serial No.:	To Be Assigned	Art Unit:	To Be Assigned
Filed:	On even date herewith	Examiner:	To Be Assigned
For:	GENETICALLY MODIFIED PLANTS EXPRESSING PROTEINASE INHIBITORS, SAPIN2A OR SAPIN2B, AND METHODS OF USE THEREOF FOR THE INHIBITION OF TRYPSIN- AND CHYMOTRYPSIN-LIKE ACTIVITIES	Attorney Docket No:	9661-043-999

PETITION FOR ACCEPTANCE OF COLOR PHOTOGRAPHS AS FORMAL DRAWINGS UNDER 37 C.F.R. § 1.84

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

Sir:

Applicants hereby petition the United States Patent and Trademark Office to accept the color photographs of Figs. 5a-n, 6a-u, 7a-l, 8a-n, and 20a-20d as formal drawings of Figs. 5a-n, 6a-u, 7a-l, 8a-n, and 20a-20d. These color photographs depict tissue sections of plants stained with specific antibodies which can only be best illustrated through a color photograph.

Submitted herewith are three (3) sets of color photographs of Figs. 5a-n, 6a-u, 7a-l, 8a-n, and 20a-20d and one (1) set of black and white photocopies of the color photographs, which accurately depicts, to the extent possible, the subject matter shown in the color photographs.

The specification concurrently filed herewith contains the following paragraph as the first paragraph in the DESCRIPTION OF THE FIGURES:

12/30/2003 BABRAHA1 00000017 161150 10725829
01 FC:1460 130.00 DA

"The application contains drawings executed in color, particularly Figs. 5a-n, 6a-u, 7a-l, 8a-n, and 20a-20d. Copies of this patent application publication with color drawings will be provided by the United States Patent and Trademark Office upon request and payment of the necessary fee."

The fee for this petition is $130.00. Please charge such fee and any other fees to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.

Respectfully submitted,

Date: December 1, 2003

Gidon D. Stern by Susie Chy 46,616 27,469

Gidon D. Stern (Reg. No.)
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090

Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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GREG T. SUEOKA
FENWICK & WEST LLP.
801 CALIFORNIA STREET
MOUNTAIN, CA 94041

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
WILLES, W. Paul et al.	:	
Application No. 10/725,844	:	DECISION ON PETITION
Filed: December 02, 2003	:	TO WITHDRAW
Attorney Docket No. **010W-01700**	:	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 17, 2008.

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

A review of the file record indicates that the power of attorney to FENWICK & WEST LLP. has been revoked by the assignee of the patent application on July 30, 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: **THE LAW OFFICE OF DEEPTI PANCHAWAGH - JAIN**
C/O INTELLEVALE
PO BOX 52050
MINNEAPOLIS MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS, NJ 07724

MAIL

JUL 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Christopher Rohrs, et al	:	
Application No. 10/725,883	:	DECISION ON REQUEST TO
Filed: December 1, 2003	:	WITHDRAW AS ATTORNEY
For: SYSTEM AND METHOD FOR PROVIDING TEXT SUMMARIZATION FOR USE IN WEB-BASED CONTENT	:	

This is a decision on the Request to Withdraw as Attorney/Agent of record received February 28, 2005.

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

The attorneys/agents to be withdrawn is not of record for the above identified application.

For the reason stated above the request is **DISMISSED AS MOOT.**

All future communications from the Office will continue to be directed to the address listed above 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 Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Patrick JS Inouye
810 3rd Avenue
Suite 258
Seattle, WA 98104

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Melvin A. Hunn, Esq.
HILL & HUNN LLP
Suite 1440
201 Main Street
Fort Worth, TX 76102

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Enns, et al. :
Filed: December 2, 2003 : ON PETITION
Application No. 10/725,919 :
Atty. Dkt. No.: 0733MH-42278C :

This decision in response to the "PETITION TO OFFICE OF PETITIONS," filed July 12, 2004. This petition is being treated as a petition to enter the previously omitted drawings into the application and accord the application a filing date of December 2, 2003.

The petition is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The application was submitted December 2, 2003. On May 12, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice"). The Notice indicated that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113 (first sentence). The Notice indicated the filing date of the application would be date of receipt of the omitted items. Any assertion that the omitted items were in fact submitted or are not necessary for a filing date must be by way of petition.

Petitioners argue that the application, as submitted, included drawings labeled Figures 1-5. Petitioners have included a copy of the eleven (11) sheets of drawings featuring Figures 1-5. The petition includes the declaration of S. Bradshaw who declares while having no specific recollection of filing of the instant application, declarant would, as a mater of course, have ensured the drawings were filed with the application. The petition also includes the declaration of M. Hunn who declares the application as filed included a complete copy of the application, including the drawings.

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

allegation by a preponderance of the evidence. A review of the official file reveals that the application as filed lacked drawings.

The declarations of S. Bradshaw and M. Hunn rely upon the declarants' recall of routine events that occurred nearly seven months earlier and are not more persuasive than the record of what was filed as shown in the official file. Accordingly, the fact that the declarants believe drawings were among the papers filed is not more persuasive than the actual papers shown to have been received by the official file.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

While petitioners state the package containing the application papers included a return postcard, the petition does not include a copy of the return postcard alleged to have been included with the application papers.

Thus, petitioners have failed to establish to the satisfaction of the Director that the application papers submitted December 2, 2003 included drawings.

Thus, the petition to enter the drawings submitted on petition into the application is **DISMISSED**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at

least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the Notice of Incomplete Application mailed May 12, 2004 was mailed in error and is hereby **withdrawn**.

Accordingly, the petition to accord the application a filing date of December 2, 2003 is **GRANTED**.

Petitioners are advised to submit a second preliminary amendment prior to the issuance of the first Office action to amend the application to include Fig. 1-5.

The application will be processed with only the papers present on filing with a filing date of December 2, 2003, without drawings as part of the original disclosure.

No fee is due in connection with this matter. A refund from the Finance Office, Refund Section has been requested on petitioners' behalf.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 2, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Melvin A. Hunn, Esq.
HILL & HUNN LLP
Suite 1440
201 Main Street
Fort Worth, TX 76102

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FEB 02 2005

OFFICE OF PETITIONS

In re Application of :
Enns, et al. :
Filed: December 2, 2003 : ON PETITION
Application No. 10/725,919 :
Atty. Dkt. No.: 0733MH-42278C :

This decision is in response to the "REQUEST FOR RECONSIDERATION ON PETITION," filed October 29, 2004, whereby petitioners request reconsideration on the merits of the petition filed July 12, 2004 on the grounds that the instant request now includes additional evidence, namely, a return postcard.

The application was submitted December 2, 2003. On May 12, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice"). The Notice indicated that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113 (first sentence). The Notice indicated the filing date of the application would be date of receipt of the omitted items. Any assertion that the omitted items were in fact submitted or are not necessary for a filing date must be by way of petition.

Petitioners argue that the application, as submitted, included drawings labeled Figures 1-5. Petitioners have included a copy of the eleven (11) sheets of drawings featuring Figures 1-5. The original petition included the declaration of S. Bradshaw who declares that while having no specific recollection of filing the instant application, declarant would, as a mater of course, have ensured the drawings were filed with the application. The original petition also included the declaration of M. Hunn who declares the application as filed included a complete copy of the application, including the drawings.

Petitioners herein have submitted as evidence of receipt of the drawings a copy of a return postcard date stamped by the Office on December 2, 2003.

The arguments and additional evidence submitted by petitioners have been considered, but are not persuasive. For the reasons set forth in the decision mailed August 24, 2004, herein

incorporated by reference, petitions have failed to establish that the application as filed included the drawings in question.

Moreover, the copy of the return postcard submitted herewith does not serve as *prima facie* evidence of receipt of the drawings due to the fact that the postcard is not specifically itemized. Hence, there is no way to determine given the lack of itemization how many pages of drawings, if any, were included with the filing of the application.

Accordingly, petitioners have failed to establish that the application papers submitted December 2, 2003 included drawings.

As previously indicated, it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary. As the present application includes at least one method claim, the Notice of Incomplete Application mailed May 12, 2004 was mailed in error and was previously withdrawn.

As previously indicated, the application is entitled to a filing date of December 2, 2003 as the application was complete upon filing.

Accordingly, the petition to accord the application a filing date of December 2, 2003 is again **GRANTED**.

The petition for entry of the drawings as a matter of right is hereby again **DISMISSED**.

If deemed appropriate, petitioners are again advised to submit a second preliminary amendment prior to the issuance of the first Office action to amend the application to include Fig. 1-5.

The application has been processed with only the papers present on filing with a filing date of December 2, 2003, without drawings as part of the original disclosure.

It would not appear that this application requires further action by the Office of Petitions. Hence, the application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 2, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JUL 23 2004

In re Application of	:	
Lars Callne	:	
Serial No. 10/725,921	:	DECISION ON PETITION
Filed: December 1, 2003	:	TO MAKE SPECIAL
For: POWERED COPING SAW	:	

Applicant's petition, filed December 1, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Calif Kip Tervo
6387 Caminito Lazaro
San Diego, CA 92111

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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Holger Hoppe	:	
Application No. 10/725,938	:	DECISION ON PETITION
Filed: December 3, 2003	:	TO WITHDRAW
Attorney Docket No. 543822002400	:	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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Deborah S. Gladstein and all attorneys/agents associated with customer number 25227 has been revoked by the assignee of the patent application on August 15, 2007. 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.

There are no outstanding Office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Slater & Matsil, LLP
17950 Preston Road, Suite 1000
Dallas, TX 75252

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/725,938	12/03/2003	Holger Hoppe	543822002400

CONFIRMATION NO. 4491

OC000000025421775

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/15/2007.

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

Kimberly Gravinet

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

FORMER ATTORNEY/AGENT COPY

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

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OFFICE OF PETITIONS

In re Application of
Mirkin et al.
Application No. 10/725,939
Filed: December 3, 2003
Attorney Docket No. 083847-0231

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 15, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Chad A. MIRKIN
2. Hua ZHANG
3. Dana WEINBERGER
4. Seunghun HONG

Petitioner submitted $130.00 towards payment of the petition fee. However, the petition fee is $400.00. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

This matter is now being referred to Technology Center 1700 to await examination.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3282. All other inquiries should be directed to the Technology Center.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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ROBERT W. BECKER & ASSOCIATES
707 STATE HIGHWAY 333
SUITE B
TIJERAS NM 87059-7507

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AUG 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Sebastian Jager	:	
Application No.: 10/725967	:	ON PETITION
Filing or 371(c) Date: 11/17/2003	:	
Attorney Docket Number: JAP0803	:	

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 March 5, 2007.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed December 28, 2005. 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 March 29, 2006. A Notice of Abandonment was mailed December 27, 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.

This application is being referred to Technology Center Art Unit 3748 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 17, 2008

TO SPE OF : ART UNIT 1771

10/725995

SUBJECT : Request for Certificate of Correction for Appl. No. ~~10/7255995~~ patent No.: 7300619

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: _____

Susan Berman for James Seidleck 1796 (was 1711)

SPE **Art Unit**

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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MAR 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Martin A. Van Der Hoeven	:	
Application No. 10/725,997	:	DECISION ON PETITION
Filed: December 3, 2003	:	
Attorney Docket No. 54440-00602	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 1, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 2, 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 election, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received September 17, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/725,997	12/03/2003	Martin A. Van Der Hoeven	54440-00602

CONFIRMATION NO. 5192

POA ACCEPTANCE LETTER

OC000000028558100

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 02/28/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

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

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Moser, Patterson & Sheridan
Suite 100
595 Shrewsbury Avenue
Shrewsbury NJ 07702

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SEP 11 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Liu et al. :
Application No. 10/726,002 :
Filed: December 1, 2003 :
Attorney Docket No. YOR920030522US1 :

This is a decision on the petition, filed July 8, 2009, under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is granted to the extent *infra*.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only Sambit Sahu has agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to May 27, 2003.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Zhen Liu and George Popescu to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being referred to Technology Center AU 2441 for further examination on the merits.

Inquiries regarding this decision may be directed to Christopher Bottorff at (571) 272-6692. Inquiries concerning the examination or status of the application should be directed to the Technology Center.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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CONNORS & ASSOCIATES INC
1600 DOVE STREET SUITE 220
NEWPORT BEACH CA 92660-2427

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Stephen Miller :
Application No. 10/726,003 :
Filed: November 12, 2003 :
Attorney Docket No. 2058.300C :

This is a decision on the petition, filed April 11, 2006, to reinstate the patent application or in the alternative, to revive the application.

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned on September 16, 2005, for failure to file a response to the Final Office Action mailed June 15, 2005. No extensions of time having been filed prior to the expiration of the maximum period obtainable under 37 CFR 1.136, this application became abandoned. Accordingly, a Notice of Abandonment was mailed January 12, 2006.

Petitioner asserts that a Notice of Appeal was filed on October 13, 2005 with a one month extension of time request. Submitted as proof is a copy of the Notice of Appeal, and extension of time request, bearing a certificate of mail dated October 13, 2005, and a copy of a USPTO post card receipt dated-stamped on October 13, 2005.

A search of the application file and the USPTO records reveals that in fact, the Notice of Appeal and one month extension of time, all with the proper fees, were timely filed on October 13, 2005.

Accordingly, the response was timely and the Notice of Abandonment mailed January 12, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. In view thereof, there is no need to treat the petition under the unintentional standard.

The Notice of Appeal filed October 13, 2005 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 3636 for processing the Notice of Appeal.

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

MAY 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Gerd DANNER, et *al.*	:	
Application No. 10/726,004	:	DECISION ON PETITION
Filed: December 1, 2003	:	UNDER 37.CFR 1.313(c)(1)
Attorney Docket No. **34874-082/2003P00266US**	:	

This is a decision on the petition under 37 CFR 1.313(c), filed May 5, 2010, 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 request for continued examination in compliance with 37 CFR 1.114; or
(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

Petitioner requests the application be withdrawn from issue based on (2) consideration of a request for continued examination and for consideration of an information disclosure statement. Unfortunately, the required submission (in this instance, IDS) was omitted.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted at this time.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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) 273-0025
Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-7253.

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

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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Application of
Gerd DANNER, et *al.*
Application No. 10/726,004
Filed: December 1, 2003
Attorney Docket No. **34874-082/2003P00266US**

DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed May 12, 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 April 30, 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2161 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed May 11, 2010.

/Monica A. Graves/
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.*

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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

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OFFICE OF PETITIONS

In re Application of	:	
SVANEHOLM	:	
Application No. 10/726,030	:	DECISION ON PETITION
Filed: December 01, 2003	:	TO WITHDRAW
Attorney Docket No. 13710	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

All attorneys appointed by power of attorney on December 01, 2003 remain of record.

A Review of the file discloses that a non-final Office action was mailed on July 27, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of July 27, 2006 has been received.

The correspondence address remains unchanged.

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

for David Bucci
Petitions Examiner
Office of Petitions

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LAMBERT & ASSOCIATES
SUITE 200
92 STATE STREET
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of Searle	:	
Application No. 10/726,110	:	Decision on Petition
Filing Date: December 2, 2003	:	
Attorney Docket No. 03-062-GS	:	

This is a decision on the petition under 37 CFR 1.181, filed August 18, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A final Office action was mailed January 20, 2006.

The Office received a Notice of Appeal on July 24, 2006. The Notice included a certificate of mailing dated July 20, 2006.

The Notice included three sheets. The ftwo-page "letter" included the header "NOTICE OF APPEAL" and included authorization to charge required fees to petitioner's deposit account. The deposit account was charged $510 for an extension of time and $250 for the Notice of Appeal.

The third page was titled, "NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES." Due to clerical error, the application number listed on the third page was "10/064,270" rather than "10/726,110." As a result, the third page was matched with the incorrect file and the fees were applied to the incorrect application.

The papers filed July 24, 2006, were not matched with the file for the instant application on or before July 27, 2006.

A Notice of Abandonment was mailed July 27, 2006. The Notice stated the application was abandoned for failure to timely file a reply.

Discussion:

Petitioner filed a reply to the final Office action July 24, 2006. The paper includes a certificate of mailing date of July 20, 2006, and complies with the requirements of 37 CFR 1.8(a). Therefore, the reply was timely.

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

The paper incorrectly matched with application number 10/064,270, has been transferred to the file for the instant application.

The fees incorrect applied to application number 10/064,270, have been applied to the instant application.

The Notice of Appeal filed July 24, 2006, has been entered and made of record. The two-month (2) period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Technology Center Art Unit 3731 will be informed of the instant decision and the examiner will take further action upon petitioner filing an appeal brief or other appropriate paper.

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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PATRICK G. BURNS
GREER BURNS & CRAIN, LTD.
300 SOUTH WACKER DRIVE, SUITE 2500
CHICAGO, IL 60606

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Tanaka Yoshinori et al :
Application No. 10/726,117 : ON PETITION
Filed: December 2, 2003 :
Attorney Docket No. 1324.68772

This is a decision on the petition filed, May 30, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 30, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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 : 03/06/07

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/726134** Patent No.: **7160736**

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

2863
Art Unit

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INTELLECTUAL PROPERTY DEPARTMENT
ONE TAKEDA PARKWAY
DEERFIELD IL 60015

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OFFICE OF PETITIONS

In re Patent No. 7,070,975	:	
Yoshimura et al.	:	DECISION ON REQUEST
Issue Date: 4 July, 2006	:	FOR RECONSIDERATION OF
Application No. 10/726,148	:	PATENT TERM ADJUSTMENT
Filed: 2 December, 2003	:	and
Atty Docket No. PF613TD1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed on 5 September, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 333 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred thirty-three (333) days.

Patentees state the instant application is not subject to a terminal disclaimer.

On 4 July, 2006, the above-identified application matured into U.S. Patent No. 7,070,975. The instant request for reconsideration filed 5 September, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 263 days.

Patentees contend that a reduction for failure by the Patentees to engage in reasonable efforts to conclude processing or

examination of the above-identified application as set forth in 37 CFR § 1.704 is not warranted. In essence, Patentees' dispute the reduction for 70 days associated with the filing of an Information Disclosure Statement (IDS) after the mailing of the Notice of Allowance. Patentees state that no IDS was actually filed after the mailing of the Notice of Allowance, and thus, no reduction of 70 days is warranted.

Patentee's contention is well taken. A review of the image file wrapper reveals that no IDS was filed on 24 March, 2005. Rather, on 1 June, 2006, a supplemental Notice of Allowance was mailed indicating that the examiner had considered the IDS filed with the original application papers, on 2 December, 2003, in response to a Printer Rush request. As such, no IDS or supplemental paper was filed after the mailing of the Notice of Allowance.

In view thereof, the patent term adjustment indicated on the patent should be three hundred thirty-three (333) days (345 days of PTO delay, reduced by 12 days of Applicant delay).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED THIRTY-THREE (333) days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

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 : 7,070,975 B2

DATED : July 4, 2006

INVENTOR(S) : Koji Yoshimura et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (101) days

Delete the phrase "by 263 days" and insert – by 333 days--

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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

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OFFICE OF PETITIONS

In re Application of	:	
Constance M. John, et. al.	:	
Application No. 10/726,198	:	DECISION ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. 81217-358194	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement/Election, mailed September 20, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response and amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

The Revocation/Appointment of Power of Attorney or Authorization of Agent filed June 20, 2008 has been accepted and made of record. A Notice of Acceptance is enclosed with this decision.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/726,198	12/02/2003	Constance M. John	81217-358194

CONFIRMATION NO. 3458

POWER OF ATTORNEY NOTICE

48924
KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS, MI 48334

OC000000032242072

Date Mailed: 09/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/20/2008.

- 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).

/dwilliams/

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/726,201	12/02/2003	2636	2728	H0005051-9950 (1161.11351	33	81	13

CONFIRMATION NO. 3300

CORRECTED FILING RECEIPT

OC000000015873047

000128
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Date Mailed: 04/26/2005

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)

Gabriel A. Bergman, St. Louis Park, MN;
Eugene J. Takach, Eden Prairie, MN;
Marcus D. Stoner, Minnetonka, MN;
John B. Amundson, Plymouth, MN;
Philip O. Readio, Savage, MN;
Paul G. Schwendinger, St. Louis Park, MN;
James A. Wolfbauer, Ramsey, MN;
Jeff D. Boll, Brooklyn Park, MN;
Ian Thomson, Lanarkshire, UNITED KINGDOM;
Colin Ferguson, Lanarkshire, UNITED KINGDOM;
George J. McLeod, Stirlingshire, UNITED KINGDOM;

Power of Attorney:

John Shudy Jr–31214
David Crompton–36772
Glenn Seager–36926
Brian Tufte–38638
James Wickhem–41376
Matthew Luxton–41960
Gregory Ansems–42264
Kris Fredrick–42554
James Rodgers–48306
Mark Schroeder–53566

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/726,201

Projected Publication Date: 06/02/2005

Non-Publication Request: No

Early Publication Request: No

Title

Controller interface with multiple day programming

Preliminary Class

340

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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DIW Sep-08

DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT #E
NEWPORT BEACH CA 92661

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of :
Joseph H. Martin :
Application Number: 10/726223 :
Filing Date: 12/01/2003 : ON PETITION
For: VISE-MOUNTED MILLING :
MACHINE COLLET INDEXER :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on August 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 29, 2006, for failure to timely file a response to the non-final Office action mailed on October 28, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on September 1, 2006.

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

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

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

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

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

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 from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[2]

Receipt of the amendment filed on August 25, 2008 is acknowledged.

The application is referred to Technology Center Art Unit 3722 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

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[2] 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).

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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MAY 15 2007

OFFICE OF PETITIONS

In re Application of :
Gordon D. Henson et al :
Application No. 10/726,225 :
Filed: December 2, 2003 :
Attorney Docket No. 59349US002

ON PETITION

This is a decision on the petition, filed May 14, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2881 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

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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).

PTO/SB/44 (04-05)
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Approved
PP

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,132,765
APPLICATION NO.	:	10/726,259
ISSUE DATE	:	November 7, 2006
INVENTOR(S)	:	Christophe Premont 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:

Face of Patent Title of Invention	Replace "SWITCH MODE POWER SUPPLY HAVING ONLY ONE INDUCTIVE ELEMENT AN SEVERAL OUTPUTS AND METHOD OF CONTROLLING SAME" With --SWITCH MODE POWER SUPPLY HAVING ONLY ONE INDUCTIVE ELEMENT AND SEVERAL OUTPUTS AND METHOD OF CONTROLLING SAME--

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Andre M. Szuwalski
JENKENS & GILCHRIST, A PROFESSIONAL CORPORATION
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202

7,132,765

5 2007

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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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NEWARK NJ 07102

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SEP 1 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 10/726,268	:	DECISION ON PETITIONS
Filed: 12/02/2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 03-40216-US	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 26, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional 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)[1] of the prior-filed application, unless previously submitted;

---

[1] The Office notes that the claim under 35 U.S.C. 119(e) for the benefit of the prior-filed provisional application, set forth in the amendment submitted on petition, incorrectly references the filing date of the prior-filed application as September 4, 2002, instead of September 6, 2002. (See accompanying filing receipt and Bib Data Sheet for Application No. 60/408,606). Pursuant to 37 CFR 1.78(a)(5)(i): "Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number)." Applicants may wish to file an amendment to the first line of the specification, correcting the filing date of the prior-filed provisional

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

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

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

As all the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR §§ 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) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

---

application. As a benefit claim pursuant to 37 CFR 1.78(a)(5) does not require identification of the filing date of an application filed under 35 U.S.C. 111, no renewed petition under 37 CFR 1.78 nor any additional surcharge is required to effectuate this correction.

This application is being forwarded to Technology Center Art Unit 3623 for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Corrected Filing Receipts (10/726,268 and 60/408,606) and Bib Data Sheet (60/408,606)

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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
10/726,268	12/02/2003	3623	703	03-40216-US	31	3

CONFIRMATION NO. 3359

CORRECTED FILING RECEIPT

26345
GIBBONS P.C.
ONE GATEWAY CENTER
NEWARK, NJ 07102

OC000000037707068

Date Mailed: 09/09/2009

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)

Greg Miller, Asbury, NJ;
Kevin McMurtry, Basking Ridge, NJ;
Jeffrey Brady, Jersey City, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 26345

Domestic Priority data as claimed by applicant

This application is a CIP of 10/440,521 05/16/2003
which claims benefit of 60/408,066 09/04/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/726,268**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

System and method for a planner

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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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
60/408,606	09/06/2002		160	3123-513-prov		

CONFIRMATION NO. 3259

CORRECTED FILING RECEIPT

David M. Sigmond
Maxtor Corporation
2452 Clover Basin Drive, B133
Longmont, CO 80503

OC000000037707104

Date Mailed: 09/08/2009

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

James Alexander, Boulder, CO;
David McMurtrey, Loveland, CO;
Richard LeSage, Longmont, CO;
Jason Laks, Boulder, CO;

Power of Attorney:
David Sigmond--34013

If Required, Foreign Filing License Granted: 09/24/2002
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 60/408,606**
Projected Publication Date: None, application is not eligible for pre-grant publication
Non-Publication Request: No
Early Publication Request: No
Title

Method for reducing runout using clock head playback during servo writing

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.

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of

State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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Bib Data Sheet

CONFIRMATION NO. 3259

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
60/408,606	09/06/2002 RULE			3123-513-prov

APPLICANTS

James Alexander, Boulder, CO;
David McMurtrey, Loveland, CO;
Richard LeSage, Longmont, CO;
Jason Laks, Boulder, CO;

** CONTINUING DATA **********

** FOREIGN APPLICATIONS **********

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 09/24/2002

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	CO	1		
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS
David M. Sigmond
Maxtor Corporation
2452 Clover Basin Drive, B133
Longmont, CO80503

TITLE

Method for reducing runout using clock head playback during servo writing

FILING FEE RECEIVED		
160	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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SEP 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	CORRECTED
Application No. 10/726,268	:	DECISION ON PETITION
Filed: 12/02/2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 03-40216-US	:	

This is a corrected decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 26, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.[1]

The petition is DISMISSED.

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

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

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR

[1] The decision of September 9, 2009, is hereby withdrawn and replaced by the instant corrected decision.

§§ 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 intermediate 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 intermediate nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

After further review, and upon consulting with the Examiner, the Office has concluded that the petition does not comply with item (1) above. Specifically, it is noted that the amendment submitted with the present petition contains a reference to an incorrect provisional application, No. 60/408,606 (METHOD FOR REDUCING RUNOUT USING CLOCK HEAD PLAYBACK DURING SERVO WRITING), filed September 6, 2002, instead of intended provisional Application No. 60/408,066 (SYSTEM AND METHOD FOR A PLANNER), filed September 4, 2002.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, petitioner must file a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), accompanied by either a Supplemental Application Data Sheet or an amendment (complying with 37 CFR 1.121, 37 CFR 1.76 and 37 CFR 1.33(b)).[2] No additional petition fee 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

[2] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions 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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Donald W. Meeker
Patent Agent
924 East Ocean Front #E
Newport Beach, CA 92661

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Cynthia L. Little	:	
Application No. 10/726,281	:	ON PETITION
Filed: December 1, 2003	:	
Attorney Docket No. LITTLE	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being referred to Technology Center 3600.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-13-09

Paper No.: _____

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/726305 Patent No.: 6932610

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

FOR IFW FILES: Please review COCN

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

Ennis Young
Certificates of Correction Branch
703-756-1542

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
Digitally signed by Gene Kim
DN: cn=Gene Kim, c=US, o=PTO, ou=AU 3711, email=eugene.kim@uspto.gov
Date: 2008.12.08 12:26:49 -05'00'

SPE **Art Unit**

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BECK & TYSVER, P.L.L.C.
SUITE 100
2900 THOMAS AVENUE
MINNEAPOLIS, MN 55416

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of
Kai Desinger
Application No. 10/726,325
Filed: December 1, 2003
Attorney Docket No. 3001

: 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 on December 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application No. PCT/EP02/05766 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(s), unless previously submitted;[1]

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

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

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

This pending nonprovisional application was filed on December 13, 2003, and was pending at the time of filing of the petition. A reference to the 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).

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

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

This application is being forwarded to Technology Center Art Unit 3736 for consideration by the Examiner of the amendment filed December 13, including applicant's claim under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to PCT application No. PCT/EP02/005766.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Erik E. Emstad	: DECISION ON REQUEST FOR
Patent Number	: 7641659	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/726,329	: 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 **1576** 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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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/26/2010

Applicant	: Kazi A. Zaman	: DECISION ON REQUEST FOR
Patent Number	: 7657516	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/726,338	: 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 **535** 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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Commissioner for Patents
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Alexandria, VA 22313-1450
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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Iida et al.	:	
Application No. 10/726,339	:	ON PETITION
Filed: December 3, 2003	:	
Attorney Docket No. 832.1003CPCON	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 25, 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 December 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 9, 2005. A Notice of Abandonment was mailed on June 13, 2005.

Petitioner submitted $1370.00 for payment of the issue fee. However, the amount is determined at the time the fee is paid in full. Although it was listed as $1370.00 on the Notice of Allowance issued in 2004, the issue fee is now $1400.00. Accordingly, an additional $30.00 will be charged to petitioner's deposit account as previously authorized.

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF JAY R. HAMILTON
331 W. 3RD ST.
NEW VENTURES CENTER SUITE 120
DAVENPORT IA 52801

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of	:
Marion Calmer	:
Application No. 10/726,348	: DECISION GRANTING PETITION
Filed: December 3, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. USPA0035	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 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 previously filed on August 8, 2006; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of February 8, 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 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
P.O. Box 1450
Alexandria, VA 22313-1450
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INSKEEP INTELLECTUAL PROPERTY GROUP, INC.
2281 W. 190TH STREET
SUITE 200
TORRANCE, CA 90504

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of	:
Raymond W. Blodgett Jr. et al	:
Application No. 10/726,352	: DECISION ON PETITION
Filed: December 2, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 18393-302	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 22, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on December 2, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No.60/430,425, which was filed on December 2, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. 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).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, 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 Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Petition Examiner
Office of Petitions

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INSKEEP INTELLECTUAL PROPERTY GROUP, INC
2281 W. 190TH STREET
SUITE 200
TORRANCE, CA 90504

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OFFICE OF PETITIONS

In re Application of	:	
Raymond W. Blodgett Jr. et al	:	
Application No. 10/726,352	:	DECISION ON PETITION
Filed: December 2, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 18393-302	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 3654 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/726,352	12/02/2003	3654	1159	18393-302	21	3

CONFIRMATION NO. 9022

CORRECTED FILING RECEIPT

OC000000025771576

37374
INSKEEP INTELLECTUAL PROPERTY GROUP, INC
2281 W. 190TH STREET
SUITE 200
TORRANCE, CA 90504

Date Mailed: 09/11/2007

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

Applicant(s)

Raymond W. Blodgett JR., Norco, CA;
Benjamin J. Fletes, Victorville, CA;

Power of Attorney:

James Inskeep--33910
Charles Fredericks--51703

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/430,425 12/02/2002
and claims benefit of 60/488,633 07/18/2003
and claims benefit of 60/430,406 12/02/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/726,352

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Lift system

Preliminary Class

187

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

JUN 29 2006

In re Application of:
Hikedi Ito
Serial No.: 10/726,354
Filed: December 02, 2003
Attorney Docket No.: **9281-4717**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on December 13, 2004, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on April 21, 2004. A Notice of Abandonment was mailed on November 30, 2004.

Petitioner asserts that on June 28, 2004, a response to the Office action was filed. To support this assertion, petitioner has submitted a copy of the response bearing a certificate under 37 CFR § 1.8(a), signed and dated June 28, 2004, and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on July 01, 2004.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on July 01, 2004, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost somewhere after receipt thereof.

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

The copy of the response submitted with the petition on December 13, 2004, is accepted since the originally submitted response was apparently lost.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

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

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

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

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MAY 31 2007
OFFICE OF PETITIONS

In re Application :
Ito :
Application No. 10/726,354 : PATENT TERM ADJUSTMENT
Filed: December 2, 2003 :
Dkt. No.: 9281-4717 :

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed February 9, 2007. This matter is being treated under 37 CFR 1.705(b) as an application for patent term adjustment (PTA).

Applicants herein have not disputed the patent term adjustment (PTA) accorded to date (zero days). Instead, the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicant is reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in

determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three 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 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

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

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

Kery A Fries

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/09

TO SPE OF : ART UNIT 2618
SUBJECT : Request for Certificate of Correction for Appl. No.: 10726374
Patent No.: 7536154

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

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

Comments: Approved. Okay to enter. There is no new matter.

DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SMITH INTERNATIONAL PATENT APPLICATIONS
JEFFER, MANGELS, BUTLER & MARMARO LLP
1900 AVENUE OF THE STARS
SEVENTH FLOOR
LOS ANGELES CA 90067

COPY MAILED

JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Anthony Griffo	:	
Application No. 10/726,387	:	ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. 63833-5028	:	

This is a decision on the petition filed January 17, 2007, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 28, 2006. Accordingly, the above-identified application became abandoned on December 29, 2006.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on January 17, 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]

---

[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).

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

The application will be forwarded to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/726,391	12/03/2003	3612	842	998-904DV	5	22	3

CONFIRMATION NO. 5606

CORRECTED FILING RECEIPT

OC000000013738884

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

Date Mailed: 09/07/2004

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

Applicant(s)

Girma Gebreselassie, Southfield, MI;
Matt Starling, Ypsilanti, MI;
Anthony J. Messina, Royal Oak, MI;
Surendra Khambete, West Bloomfield, MI;

Power of Attorney:

Needham Boddie II--40519

Domestic Priority data as claimed by applicant

This application is a DIV of 10/256,695 09/27/2002 PAT 6,695,374

Foreign Applications

If Required, Foreign Filing License Granted: 07/12/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/726,391

Projected Publication Date: 10/21/2004

Non-Publication Request: No

Early Publication Request: No

Title

Vehicle cockpit assemblies having integrated dash insulators, instrument panels and floor coverings, and methods of installing same within vehicles

Preliminary Class

296

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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John C. Alemanni
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2410

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:	)	
Gregory J. Badros et al.	)	
Application No. 10/726,410	)	
Filed: December 3, 2003	)	**DECISION ON REQUEST FOR**
For: METHODS AND SYSTEMS FOR	)	**WITHDRAWAL AS ATTORNEY**
PERSONALIZED NETWORK	)	
SEARCHING	)	

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed March 10, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on April 04, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed the practitioners of customer number 00758 as the attorneys of record of the instant application. The Power Of Attorney filed April 04, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by the practioners of customer number 00758.

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

Michelle R. Eslser

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,410	12/03/2003	Gregory Joseph Badros	16113-001001	5579

26192 7590 03/16/2009
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
LEWIS, CHERYL RENEA

ART UNIT	PAPER NUMBER
2167	

NOTIFICATION DATE	DELIVERY MODE
03/16/2009	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):

PATDOCTC@fr.com

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MAR 13 2009

Technology Center 2100

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

In re Application of:	)	
BADROS, et al.	)	
Application No. 10/726,410	)	**DECISION SUA SPONTE**
Docket No. 16113-001001	)	**WITHDRAWING OFFICE ACTION**
Filed: December 3, 2003	)	
For: METHODS AND SYSTEMS FOR	)	
PERSONALIZED NETWORK SEARCHING	)	

This is a decision, *sua sponte*, withdrawing the Office Action mailed October 30, 2008.

A review of the application indicates that the Notice of Allowance and Issue Fee(s) Due (PTOL-85), as well as the Notice of Allowability (PTOL-37), Examiner's Amendment and Reasons for Allowance, mailed on October 30, 2008, were inadvertently sent to Applicant due to an internal processing error. These papers are duplicative to those mailed on December 13, 2007 (PTOL-85) and those mailed on July 15, 2008 (PTOL-37). No further action is due at this time. The Issue Fee(s) have been paid in full.

For the above stated reasons, the Office Action mailed October 30, 2008 is hereby withdrawn and vacated. The Office Action (noted above) has been closed from public view as of mailing of this decision.

The application has been forwarded to the Office of Patent Publication for Issue processing.

Any inquiry concerning this decision should be directed to Brian Johnson whose telephone number is (571) 272-3595.

3/12/2009

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

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Paper No.

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SEP 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,523,096	:	
Badros et al.	:	DECISION ON
Application No. 10/726,410	:	REQUEST FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Filed: December 3, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 16113-1100001	:	UNDER 37 CFR § 1.705(d)
	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed on June 16, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred and eight (408) to five hundred and seventy-four (574) days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Patentee is given **THIRTY (30) DAYS OR ONE (1) MONTH**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of 474 days.

On April 21, 2009, the application matured into U.S. Patent No. 7,523,096, with a revised patent term adjustment of 408 days.

On June 16, 2009, Patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. Patentees request 100 days of additional patent term adjustment in accordance with the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under § 154(b)(1)(B) only if the delays "occur on the same calendar day." Patentees assert that a period of adjustment of 66 days should have been entered for Office delay in issuing the patent pursuant to 37 CFR 1.702(a)(4). In addition, Patentees maintain that the correct PTO delay for issuance beyond three years, pursuant to 37 CFR 1.703(b), from the filing is 100 days."

Regarding the assertion that the Office should have accorded a period of adjustment of 66 days for the delay associated with the issuance of this patent, the Office agrees. In this instance, a new notice of allowance was mailed July 15, 2008 and all outstanding requirements were met when the new issue fee transmittal was submitted on October 14, 2008. The conclusion that the controlling date in calculating the period of adjustment for Office delay pursuant to 37 CFR 1.702(a)(4) is the date of submission of the issue fee transmittal on October 14, 2008 in response to the new notice of allowance mailed July 15, 2008[1] is affirmed. Hence, the issue fee was received on October 14, 2008, and this patent did not issue until April 21, 2009, which is four months and 66 days after satisfaction of all outstanding requirements. It follows that a period of adjustment of 66 days should have been accorded, pursuant to 37 CFR 1.702(a)(4). The 66 day period of adjustment is now being entered.

Regarding the request for 100 days of additional patent term adjustment, the calculation of the patent term adjustment has been reconsidered and it is affirmed that the entry of such a period is not warranted. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

---

[1] Petition, page 2.

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (June 15, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The Office has consistently taken the position that if an application is entitled to an adjustment under the three-year

pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A). The period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, there is an excluded period for the filing of a request for continued examination (RCE). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period beginning on the date of filing of the application, December 3, 2003 and ending on the date of filing of the request for continued examination, March 13, 2007. 496 days of adjustment for Office delay were accorded prior to the filing of the RCE. The 100 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 496 days attributable to grounds specified in § 1.702(a)(1). (66 days per this decision and pursuant to 37 CFR 1.702(a)(4) accrued after the filing of the RCE). Entry of the 496 days and the 100 days is neither permitted nor warranted. The greater period of 562 days is considered the actual number of days the issuance of the patent was delayed, including the 496 days as of the filing of the RCE and the 66 days subsequent 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.

In view of the additional period of adjustment of 66 days, the patent should have issued with a revised determination of patent term adjustment of 474 days (496 + 66 - 88).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a

certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 474 days.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,523,096 B2

DATED : April 21, 2009

INVENTOR(S) : Badros et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 408 days

Delete the phrase "by 408" and insert – by 474 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Aug-07

J. MITCHELL JONES
MEDLEN & CARROLL, LLP
101 HOWARD STREET, SUITE 350
SAN FRANCISCO CA 94105

COPY MAILED

AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of Jetze J. Tepe Application Number: 10/726411 Filing Date: 12/03/2003 Attorney Docket Number: MSU - 14322	: : : : : :	DECISION ON PETITION

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

The petition is **DISMISSED**.

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

The application became abandoned on 28 February, 2007, for failure to timely respond to the non-final Office action mailed on 27 November, 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. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing

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

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

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

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

The petition lacks item (1).

With regard to item (1), petitioner filed papers intended as an amendment in response to the non-final Office action with the present petition, but the papers are not signed. 37 CFR 1.4(c) requires that each piece of correspondence filed in the Office must be signed. While the proposed amendment contains a signature block for registered attorney Robert A. Goetz, the signature block has been left blank.

Petitioner should provide a signed amendment with a renewed petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[1] The three-month extension request filed on 4 June, 2007 (certificate of mailing date 30 May, 2007), was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on 27 November, 2006, and therefore is unnecessary. The extension of time fee paid on 4 June, 2007, will be credited to counsel's deposit account as authorized.

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

---

[1] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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J. MITCHELL JONES
MEDLEN & CARROLL, LLP
101 HOWARD STREET, SUITE 350
SAN FRANCISCO CA 94105

COPY MAILED

OCT 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jetze J. Tepe	:	
Application Number: 10/726411	:	DECISION ON PETITION
Filing Date: 12/03/2003	:	
Attorney Docket Number: MSU -	:	
14322	:	

This is a decision on the renewed petition filed on 13 August, 2007, under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

The application became abandoned on 28 February, 2007, for failure to timely respond to the non-final Office action mailed on 27 November, 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 13 August, 2007. The petition filed on 4 June, 2007, was dismissed on 2 August, 2007. The present renewed petition was filed on 13 August, 2007.

---

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

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

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

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

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

Receipt of the amendment filed with the present petition is acknowledged.

The application is being referred to Technology Center Art Unit 1626 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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STMICROELECTRONICS, INC.
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CARROLLTON TX 75006

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JUL 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,620,062	: DECISION ON REQUEST
OSAMU KOBAYASHI	: FOR
Issue Date: November 17, 2009	: RECONSIDERATION OF
Application No. 10/726,440	: PATENT TERM ADJUSTMENT
Filed: December 2, 2003	: and
Atty Docket No. GENSP105	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected.

The petition to correct the patent term adjustment indicated on the above-identified patent is extended or adjusted by one thousand seven hundred and two (1702) days is **GRANTED**.

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

The address in the petition is different than the correspondence address of record. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence address, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

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 seven hundred and two (1702) days**.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Cc: BEYER LAW GROUP LLP
PO BOX 1687
CUPERTINO CA 95015-1687

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,620,062 B2

DATED : November 17, 2009 **DRAFT**

INVENTOR(S) : OSAMU KOBAYASHI

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 1247 days

Delete the phrase "by 1247 days" and insert – by 1702 days--

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

6/18/09

Patent No. :7519964
Inventor(s) :Islam et al.
Issued : 4/14/2009
Title : SYSTEM AND METHOD FOR APPLICATION DEPLOYMENT IN A DOMAIN FOR A CLUSTER
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 item [75], is printed in accordance with the record and there needs to be a corrected filing receipt or a petition. 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
Decisions & Certificates
of Correction Branch
(703) 756-1571

ROBERT C. KOWERT
MEYERTONS, HOOD KIVLIN KOWERT & GOETZEL, P.C.
P.O. BOX 398
Austin, Texas 78767-0398

HR

UNITED STATES 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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NOV 03 2006
OFFICE OF PETITIONS

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES CA 90013-1024

In re Application of

BECKHAM
Application No. 10/726,464
Filed: December 03, 2003
Attorney Docket No. 297912006402

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 2006.

The request is **NOT APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Proskauer Rose LLP**
1001 Pennsylvania Avenue, NW
Suite 400 South
Washington, DC 20004

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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VINCENT BELUSKO
MORRISON & FOERSTER, LLP
555 W FITH STREET, SUITE 3500
LOS ANGELES, CA 90013

COPY MAILED

MAY 23 2008

In re Application of	:	
BECKHAM, James P.	:	
Application No. 10/726,464	:	DECISION ON PETITION
Filed: December 3, 2003	:	TO WITHDRAW
Attorney Docket No. 14673-028C2	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 22, 2008.

The request is **NOT APPROVED.**

A review of the file record indicates that Vincent J. Belusko of **MORRISON & FOERSTER, LLP** does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PROSKAUER ROSE LLP**
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON DC 20004

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/03/2010

Applicant	: Masood Murtuza	: DECISION ON REQUEST FOR
Patent Number	: 7642649	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/726,474	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICROPYRETICS HEATERS INTERNATIONAL, INC.
613 REDNA TERRACE
CINCINNATI OH 45215

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Vissa et al.	:	
Application No.: 10/726487	:	DECISION ON
Filing or 371(c) Date: 12/04/2003	:	PETITION
Title of Invention: FLEXIBLE DIE HEATER	:	

This is a decision in response to the Request Withholding of Abandonment," filed July 28, 2008. The request is properly treated as a Petition To Withdraw Holding of Abandonment under 37 CFR 1.181.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 5, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on October 6, 2005. A Notice of Abandonment was mailed March 17, 2006.

Petition under 37 CFR 1.181

Applicant files the present petition and states, in relevant part, that a timely Change of Correspondence Address was filed on November 12, 2004. Applicants also assert that a timely reply to the Office action was filed on August 24, 2005.

Review of the Application File

A review of the application file reveals that in the application as-filed on December 4, 2003, inventors Ramgol Vissa, Venkata Burada and John Carson appointed Jayadeep Deshmukh to prosecute the application.

A Notice to File Corrected Application Papers was mailed on March 16, 2004. Applicants filed an unexecuted reply to the Notice on March 31, 2004.

A non-final Office action was mailed on July 8, 2004. A reply to the Office action was filed on September 21, 2004. The reply was executed by J.A. Sekhar, as Company Representative for the Inventors. Office records do not reveal that the inventors executed a Power of Attorney authorizing J.A. Sekhar to act on their behalf in this application.

The reply filed by Applicants on September 21, 2004, was noncompliant. Applicants were so notified in a Notice of Non-Compliant Amendment ("Notice"), mailed November 1, 2004.

In response to the Notice, Applicants filed an Amendment/Reply on November 12, 2004, again executed by J.A. Sekhar. Again there is no evidence in the application file that the inventors executed a Power of Attorney authorizing J.A. Sekhar to act on their behalf in this application.

Along with the Reply, Applicants filed a Change of Correspondence Address, attempting to change the correspondence address to Customer Number 46213. The Change of Correspondence Address was executed Dr. AA Vissa. Office records do not reveal that the inventors executed a Power of Attorney authorizing Dr. Vissa to act on their behalf in this application.

Applicant filed a Supplemental Response to the Office action on March 15, 2005. The Supplemental Response was executed by J. A. Sekhar.

This Office mailed a non-final Office action on July 5, 2005.

Applicants re-filed the Change of Address Form on July 14, 2005 (executed by Dr. A.A. Vissa), and Applicant filed an amendment in response to the Office action on August 24, 2005. The Amendment was executed by J.A. Sekhar (for inventors).

Applicable Law, Rules and MPEP

37 CFR 1.33, Correspondence respecting patent applications, reexamination proceedings, and other proceedings, states:

> (b) Amendments and other papers . Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A 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.

37 CFR 1.135, Abandonment for failure to reply within time period, provides that

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Analysis

Office records reveal that in the application as-filed on December 4, 2003, inventors Ramgol Vissa, Venkata Burada and John Carson appointed Jayadeep Deshmukh to prosecute the application. Office records do not indicate that the power of attorney to Jayadeep Deshmukh was revoked.

37 CFR § 1.36, Revocation of power of attorney; withdrawal of patent attorney or agent, states:

> (a) A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceedings of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant, or the owner of the entire interest of a patent. 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. Fewer than all of the applicants (or fewer than all of the assignees of the entire interest of the applicant or, in a reexamination proceeding, fewer than all the owners of the entire interest of a patent) may revoke the power of attorney only upon a showing of sufficient cause, and payment of the petition fee set forth in § 1.17(f). A patent practitioner will be notified of the revocation of the power of attorney. Where power of attorney is given to the patent practitioners associated with a Customer Number (§ 1.32(c)(2)), the practitioners so appointed will also be notified of the revocation of the power of attorney when the power of attorney to all of the practitioners associated with the Customer Number is revoked. The notice of revocation will be mailed to the correspondence address for the application (§ 1.33) in effect before the revocation. An assignment will not of itself operate as a revocation of a power previously given, but the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in § 1.32(b). (Emphasis supplied).

Applicant has not filed an Amendment that complies with 37 CFR 1.33(b), because the amendments were not executed by a proper party. As such the reply was not a complete and proper reply in accordance with 37 CFR 1.135.

Correspondence address

A Change of Correspondence Address was filed on November 12, 2004 and on July 14, 2005, executed by Dr. A.A. Vissa. A review of Office records reveals that no power of attorney has been filed giving Dr. Vissa - the person signing the change of correspondence address - the authority to change the correspondence address. The applicable rule, 37 CFR 1.33(a)(2), Acting in a representative capacity, states:

> (2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

The MPEP 601.03 further provides:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 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 37 CFR 3.71. See 37 CFR1.33(a)(2).

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.

Conclusion

Applicants have failed to demonstrate that a complete and proper reply to the Office action was filed. Applicant's have also failed to demonstrate that a proper Change of Correspondence Address was filed. The application is properly held abandoned.

Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned

(e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not 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 revive under 37 CFR 1.137(b).

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

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

Cc: MICROPYRETICS HEATERS INTERNATIONAL, INC.
750 REDNA TERRACE
CINCINNATI OH 45215

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Vissa et al.	:	
Application No.: 10/726487	:	DECISION ON
Filing or 371(c) Date: 12/04/2003	:	PETITION
Attorney Docket Number: 2945.004US1	:	

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 March 16, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 5, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on October 6, 2005. A Notice of Abandonment was mailed March 17, 2006.

Applicant files the present petition and 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[1]. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3742 for processing of the response to the Office action filed with the petition in the normal course of business.

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

[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." 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.

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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BLAKE, CASSELS & GRAYDON LLP
BOX 25, COMMERCE COURT WEST
199 BAY STREET, SUITE 2800
TORONTO, ON M5L 1A9
CANADA

Mail Date: 04/21/2010

Applicant	: Marinus Struik	: DECISION ON REQUEST FOR
Patent Number	: 7600038	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/726,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1337** 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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CLARK & BRODY
1750 K STREET NW
SUITE 600
WASHINGTON DC 20006

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JUN 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Riley :
Application No. 10/726,524 :
Filed: December 4, 2003 :
Attorney Docket No. 10442-0100DV :

ON PETITION

This is a decision on the petition filed May 4, 2004, requesting acceptance of a substitute specification submitted with the instant petition, in response to a Notice of Omitted Items in a Nonprovisional Application, mailed March 4, 2004, and accordation of a December 4, 2003 filing date for the substitute specification. The petition is being treated under 37 CFR 1.53(e).

The application was filed on December 4, 2003. On March 4, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of December 4, 2003, and advising applicant that pages 4, 5, and 21 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner requests that the Office accept a substitute specification that includes omitted pages 4, 5, and 21 and accord a December 4, 2003 filing date to the substitute specification because the omitted pages were originally filed in prior application No. 09/987,234, the entire disclosure of which was incorporated by reference at the time of this application's December 4, 2003 filing.

The petition under 37 CFR 1.53(e) is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the missing pages were actually deposited in the PTO on December 4, 2003 with the other application papers, nor requests a later filing date.

Instead, applicant seeks to add the omitted pages to the present application on the basis that the pages are not new matter. However, no petition is necessary for that purpose. Additional pages of

specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

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

If applicant desires that pages 4, 5, and 21 be added to the specification, the appropriate procedure is by way of amendment requesting the entry of the pages. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2003. The substitute specification containing pages 4, 5, and 21 will **not** be processed at this time.

Thereafter, the application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KRAMER & AMADO, P.C.
Suite 240
1725 Duke Street
Alexandria, VA 22314

Mail Date: 04/21/2010

Applicant	: Ronald Scott Bolder	: DECISION ON REQUEST FOR
Patent Number	: 7581207	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/726,532	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 26, 2005

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 Rockefeller Plaza, Suite 1001
New York, New York 10020

In Re Application of		
FITZGERALD ET AL.	:	NOTICE OF WITHDRAWAL
Application No. 10/726,558	:	FROM ISSUE
Filed: December 4, 2003	:	
Title: DEVICE AND SYSTEM FOR HEAT SPREADER WITH CONTROLLED THERMAL EXPANSION		

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue.

The application is being withdrawn to permit reopening of prosecution of a newly discovered reference. The examiner will communicate the reasons to you.

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

Telephone inquiries should be directed to David Nelms, Supervisory Patent Examiner at (571) 272-1787.

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

James L. Dwyer
Director, Technology Center 2800
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

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MAR 0 7 2006

OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of :
Jong Han Park et al :
Application No. 10/726,567 : ON PETITION
Filed: December 4, 2003 :
Attorney Docket No. P24640 :

This is a decision on the petition, filed March 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 20, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3744 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS, DICKEY & PIERCE PLC
P O BOX 8910
RESTON, VA 20195

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:
Ja-Hum Ku et al	:
Application No. 10/726,638	: DECISION GRANTING PETITION
Filed: December 4, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2421-000030/US	:

This is a decision on the petition, filed December 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 4, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Jan10\726638.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.*

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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CROWELL & MORING
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of	:	
Shigeki Yamada et al	:	
Application No. 10/726,668	:	ON PETITION
Filed: December 4, 2003	:	
Attorney Docket No. 056207.52990US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fees in a timely manner in reply to the Notice of Allowance mailed August 15, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 16, 2005.

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

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

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Dae-Ho Choo et al :
Application No. 10/726,677 : ON PETITION
Filed: December 4, 2004 :
Attorney Docket No. 6192.0332.US

This is a decision on the petition, filed August 17, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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
www.uspto.gov

DEC 27 2004

STEVENS, DAVIS, MILLER & MOSHER, LLP
SUITE 850
1615 L STREET, NW
WASHINGTON DC 20036-5622

In re Application of	:
Louis V. Kirchhoff et al	:
Serial No.: 10/726,692	: PETITION TO MAKE SPECIAL
Filed: December 4, 2003	:
Attorney Docket No.: 21311A	:

This is in response to applicants= petition filed November 12, 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, XII. Therefor the petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Novak, Druce & Quigg LLP
1300 I Street, N.W.
Suite 1000, West Tower
WASHINGTON DC 20005

MAILED

JUN 0 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,491,515	:	
Issue Date: February 17, 2009	:	
Application No. 10/726,692	:	NOTICE
Filed: December 4, 2003	:	
Attorney Docket No. 21311A	:	

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 Terri Williams at (571) 272-2991.

Brian Brown
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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 16 2009

OFFICE OF PETITIONS

In re Application of Matsubayashi et al. :
Application No. 10/726,709 :
Filing Date: December 4, 2003 :
Attorney Docket No. 00862.023341 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed January 14, 2009, to withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a final Office action on April 21, 2008. The Office did not receive a reply to the Office action. As a result, a Notice of Abandonment was mailed November 14, 2008.

Petitioner requests withdrawal of the holding of abandonment.

The showing of record is sufficient to demonstrate non-receipt of the final Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A new final Office action will be mailed and the period for reply will be re-started.

Technology Center Art Unit 2174 will be informed of the instant decision. Thereafter, the Technology Center will mail a new final Office action. The time period for responding to the new final Office action will be set to run from the mailing date of the new final Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IGOR K. KOTLIAR
P.O. BOX 2021
NEW YORK NY 10159-2021

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of
Igor K. Kotliar
Application No. 10/726,737
Filed: December 3, 2003
Attorney Docket No: IKK-19

ON PETITION

This is a decision on the petition filed March 23, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 4, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned July 5, 2009. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 3752 for appropriate action on the amendment filed March 23, 2010.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/726,752	12/02/2003	1617	1590	PU4727US-1	12	44	6

CONFIRMATION NO. 6812

CORRECTED FILING RECEIPT

OC000000017548944

23347
GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

Date Mailed: 11/30/2005

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)

Ian Richard Buxton, Halton Hills, CANADA;
Robin Currie, Durham, NC;
Myrna A. Dela-Cruz, Brampton, CANADA;
Gary Wayne Goodson, Durham, NC;
Wlodzimierz Karolak, Mississauga, CANADA;
Mehran Maleki, North York, CANADA;
Vijay Mohan Iyer, Mississauga, CANADA;
Gopal Muppirala, Durham, NC;
Alan Frank Parr, Durham, NC;
Jagdey Singh Sidhu, Harlow, UNITED KINGDOM;
Robert Allen Stagner, Durham, NC;
Akunuri Venkata Vijay-Kumar, Brampton, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number **23347**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/629,177 07/29/2003

Foreign Applications

UNITED KINGDOM 0217493.6 07/29/2002
UNITED KINGDOM 0217492.8 07/29/2002
UNITED KINGDOM 0313801.3 06/13/2003

If Required, Foreign Filing License Granted: 01/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/726,752

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Novel formulations and method of treatment

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES 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

Roman Genov
30 Helena Ave.
Toronto ON M6G 2H2 CA CANADA

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of Roman A. Genov and Gert Cauwenberghs Application No. 10/726,753 Filing Date: December 4, 2003 Title: HIGH-PRECISION MATRIX-VECTOR MULTIPLICATION ON A CHARGE-MODE ARRAY WITH EMBEDDED DYNAMIC MEMORY AND STOCHASTIC METHOD THEREOF	DECISION ON PETITION UNDER 37 C.F.R. §1.10(E)

BACKGROUND

This is a decision on the petition filed August 2, 2004, requesting that the above-identified application be accorded a filing date of December 3, 2004.

On December 4, 2003, the above-identified application was received in the Office. The Office of Initial Patent Examination mailed petitioner's filing receipt, indicating that the application had been accorded the date of receipt as the filing date.

In response, on August 2, 2004, applicants filed the present petition. Petitioner has included the petition fee, a copy of the Express Mail Label having a number of ET826568878US, and a print-out of the tracking results from the USPS website. Applicants request that the application be accorded a filing date of December 3, 2003.

THE RELEVANT PORTION OF THE MPEP

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail" sets forth, in part:

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "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.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 FR 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 FR 4285, Jan. 31, 1983, paras. (a) & (c), 49 FR 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 67 FR 36099, May 23, 2002, effective June 24, 2002]

ANALYSIS

Unfortunately, none of the text on the Express Mail label Petitioner has included can be discerned by the undersigned, as the text is very faint. The print-out of the tracking results from the USPS website shows that the package was received on

December 4, 2003, but does not show the date on which the item was deposited with the USPS. The undersigned has visited the USPS's website and attempted to replicate the search, but unfortunately, the "shipment details" link which can be seen on the print-out Petitioner has supplied is no longer present, in that the information is now stored off-line.

Nevertheless, it does not appear that Petitioner has met the requirements of 37 C.F.R. §§1.10(e)(2), (3), and (4), in that the application does not have the Express Mail label number listed thereon. Typically, applicants will write the number on the Utility Application Transmittal sheet. The electronic file has been reviewed, and the "Express Mail Label No." field of the Utility Application Transmittal sheet was not filled in. Furthermore, none of the sheets submitted on December 4, 2003 contain either a copy of the Express Mail label or the notation "ET826568878US." As such, while it is clear that something was mailed to the Office on or before December 4, 2003, it is not possible for the undersigned to determine either when the package was deposited with the USPS or what the submission consisted of.

CONCLUSION

Therefore, this petition is **DISMISSED**.

After the mailing of this decision, the application will be forwarded to Technology Center 2100 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

UNITED STATES 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

Edward S. Wright, Esq.
Suite 3400
Four Embarcadero Center
San Francisco CA 94111-4187

COPY MAILED

AUG 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Martin Clive-Smith et al.	:	
Application No. 10/726,763	:	DECISION GRANTING
Filed: December 2, 2003	:	PETITION UNDER 37 C.F.R.
Attorney Docket No. A-70132-1/ESW	:	§1.53(B)
Title: ADJUSTABLE POST FOR CONTAINER	:	

This is a decision on the petition filed April 9, 2004, requesting the application, including 15 sheets of drawings, containing Figures 1A - 19, be accorded a filing date of December 2, 2003 as part of the original disclosure.

The application was deposited on December 2, 2003. However, on March 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application - Filing Date NOT Granted (notice) stating that the application appeared to have been deposited without drawings, and that a filing date would be accorded upon the depositing of drawings.

In response, on April 9, 2004, applicants filed the present petition. The petition is further accompanied by a copy of 15 sheets of drawings, containing Figures 1A - 19, along with a copy of applicants' postcard receipt acknowledging receipt of "drawings" in the United States Patent and Trademark Office (Office) on December 2, 2003. Applicants request that the application, including 15 sheets of drawings, containing Figures 1A - 19 be accorded a filing date of December 2, 2003.

Upon review of the record, the above-mentioned figures have not been located among the application papers.

Petitioner will note that Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

> 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).
>
> (Emphasis added)

As such, the postcard receipt, which Petitioner has submitted with the instant petition, is poorly itemized in that it does not list the number of pages which were submitted. However, as no drawings were received, the Office will interpret the notation of "drawings" to include the 15 sheets containing Figures 1A - 19. In the future, Petitioner may wish mark his postcard receipts with increased specificity.

For this reason however, the evidence is convincing that the application papers deposited on December 2, 2003 included 15 sheets of drawings, containing Figures 1A - 19, and the sheets which contained these figures were subsequently misplaced in the Office.

Therefore, the application, including 15 sheets of drawings, containing Figures 1A - 19 was complete on filing and entitled to a filing date of December 2, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed December 2, 2003 was sent in error. 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 December 2, 2003, using the original application papers filed on that date, as well as 15 sheets of drawings, containing Figures 1A - 19 of the specification submitted on April 9, 2004. OIPE will then issue a corrected filing receipt.

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

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

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

Mail Date: 04/21/2010

Applicant	: Sreenivasulu Jaladanki	: DECISION ON REQUEST FOR
Patent Number	: 7536439	: RECALCULATION of PATENT
Issue Date	: 05/19/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/726,786	: OF WYETH
Filed	: 12/02/2003	:
		:

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

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

MAY 18 2004

MAILED

MAY 18 2004

OFFICE OF THE DIRECTOR
TC 3600

William J. Mason
Maccord Mason PLLC
Post Office Box 1489
Wrightsville Beach, NC 28480

In re application of	:	**DECISION ON PETITION**
William M. Pierce	:	**TO MAKE SPECIAL**
Application No. 10/726,796	:	**(APPLICANT'S AGE)**
Filed: December 2, 2003	:	
For: TRAILER TO VEHICLE CONNECTING SYSTEM		

This is a decision on the petition submitted on December 16, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by William H. Pierce, and a birth certificate indicating that he is at least 65 years of age.

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

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

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

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

SNM/vdb: 5/13/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Jan Steenkamp
Application No. 10/726,800
Filed: December 2, 2003

For: MULTIPLE CONTENT PROVIDER USER INTERFACE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on October 18, 2004.

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

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

Attorneys/agents associated with Customer Number 08791 withdrawal are withdrawn.

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

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

Cc: ANDRE L. MARAIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

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SANDRA L. ETHERTON
ETHERTON LAW GROUP
PO BOX 27843
TEMPE, AZ 85285-7843

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APR 02 2004
OFFICE OF PETITIONS

In re Application of
Michael J. Tilley et al
Application No. 10/726,801
Filed: December 2, 2003
Attorney Docket No. 309-002

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 2, 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (3) and (4) set forth above.

As to item (3), the fee required for a petition under 37 CFR 1.47 is missing (37 CFR 1.17(i)) and a general authorization to charge a deposit account has not been filed.

As to item (4), a statement of the inventor's last known address is missing and is required.

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

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

By hand: Crystal Plaza Two, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

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

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SANDRA L. ETHERTON
ETHERTON LAW GROUP, LLC
5555 E. VAN BUREN STREET, SUITE 100
PHOENIX AZ 85008

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OCT 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
TILLEY, et. al.	:	
Application No. 10/726,801	:	DECISION ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. 309-002	:	

This is in response to the **renewed** petition under 37 CFR 1.47(a), originally filed April 5, 2004 and resubmitted on May 5, 2006 (with evidence of facsimile transmission on April 5, 2004).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

Applicant lacks item (1) above.

The petition states that a declaration for the present application and a cover letter with instructions were sent to the non-signing inventor Douglas Linc Clark via certified mail on November 12, 2003. The certified letter was not claimed and subsequently returned to the sender unopened.

While the declaration of Sandra L. Etherton states that a copy of the certified mail papers, postal receipt, and shipment rejection from the U.S. Postal Service were enclosed with the petition, copies of such were not found in the file record.

As to item (1), the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Douglas Linc Clark, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

The evidence of record only shows one attempt was made to present Mr. Clark with the declaration papers via the certified mail communication dated November 12, 2003. This single instance cannot be construed as evidence of a "diligent effort" to contact Mr. Clark since one unclaimed letter is not a *bona fide* indication of a refusal to sign the application papers. Furthermore, the declaration of co-inventor Michael J. Tilley's statement that on or about October 30, 2003 Mr. Clark said "he would not sign any papers and would not pay until he talked to a lawyer" cannot be construed to be an expressed refusal since it was a conditional statement and only six business days elapsed between the date of the conversation and the mailing of the certified mail communication on November 12, 2003 which was never received by Mr. Clark.

Furthermore, the evidence of record fails to show that the non-signing inventor was presented with the complete application papers including the specification, drawings, and claims along with the declaration. The certified mail communication sent to Mr. Clark only contained a declaration and coversheet with instructions. Since the certified mail communication was never received, there is no evidence of record to show that Mr. Clark has in his possession a copy of the declaration and application papers for which he failed to signed or any knowledge that such papers were sent to him to constitute a refusal after November 12, 2003 since there appears to be no further communications between the petitioner and Mr. Clark.

At the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Clark's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

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

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

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

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

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

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

Telephone inquiries should be directed to Amelia Au at (571) 272-7414.

Brian Hearn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
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SANDRA L. ETHERTON
ETHERTON LAW GROUP, LLC
5555 E. VAN BUREN STREET, SUITE 100
PHOENIX, AZ 85008

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of
Michael J. Tilley et al.
Application No. 10/726,801
Filed: February 2, 2003
Attorney Docket No. 309-002

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:37 CFR 1.47(a)) DISMISSED AS
:INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed December 2, 2003 and was dismissed in a decision mailed April 2, 2004. A renewed petition, also filed under 37 CFR 1.47(a), was filed April 5, 2004 was dismissed in a decision mailed October 11, 2006.

Papers filed on December 11, 2006, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed October 11, 2006, included a declaration signed by previously non-signing inventor Douglas Linc Clark, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed December 11, 2006 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to Technology Center 3726 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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SEP 22 2005

OFFICE OF PETITIONS

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

In re Application of	:
Maginot, et al.	: PETITION DECISION
Application No. 10/726,803	: UNDER 37 CFR 1.78(a)(3)
Filed: December 2, 2003	:
Dkt. No.: 22220-08626	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper

statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

The Office acknowledges receipt of the required fee of $1,370.00.

Any inquiries concerning this decision may be directed to Alesia M. Brown at (571) 272-3205. 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 Unit 3700 for appropriate action on the amendment filed October 5, 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

ATTACHMENT: Corrected Filing Receipt

3700

RECEIVED
CENTRAL FAX CENTER
APR 07 2004
OFFICIAL

ETHERTON LAW GROUP LLC

444 E. SOUTHERN AVENUE, SUITE B
TEMPE, AZ 85282

TEL: 480 – 966 – 3331
FAX: 480 – 966 – 3339

To: United States Patent and Trademark Office
Central Facsimile

Fax: (703) 872-9306

Phone: 703-306-5685

Re: **REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR §1.47**

Appl. No: 10/726,801

Atty File: 309-002

FROM: Sandra L. Etherton, Reg. No. 36,982

FAX: 480-966-3339

PHONE: 480-966-3331

RECEIVED
APR - 7 2004
OIPE/JCWS

PAGES: 4 including cover

DATE: April 5, 2004

**THE ATTACHED INFORMATION IS CONFIDENTIAL.
PLEASE DO NOT DISSEMINATE TO OTHER THAN ADDRESSEE.**

OIPE JC49
APR 07 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Applicants:	TILLEY, Michael J. and CLARK, Douglas Linc
Title of Invention:	Fastener Starting Tool
Filed:	Herewith
Serial Number:	**10/726,801**
Atty Docket No.:	309-002

CERTIFICATE OF TRANSMISSION under 37 CFR §1.8 and 1.6(d)
I hereby certify that the correspondence listed above is being transmitted by facsimile on the date indicated below to the central facsimile number: 703-872-9306.

Sandra L. Etherton — Date 4/5/04

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR §1.47

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

Dear Sir:

This is a reply to the dismissal of the Petition for Unsigned Inventor. Applicant addresses the deficiencies noted in that dismissal and requests reconsideration of the petition. This reply was filed within two months of the mailing date of the dismissal and is therefore considered timely filed.

Please find enclosed a credit card charge form for the fee required for the petition under 37 CFR 1.47. The missing inventor's last known address is:

Douglas Linc Clark
6024 W. Blue Sky Drive
Phoenix, AZ 85085

04/08/2004 SSESHE1 00000118 10726801
01 FC:1460 130.00 OP

Invention: Fastener Starting Tool
Inventors: TILLEY and CLARK

Applicant requests that the application be allowed to proceed to examination.

Respectfully submitted,

Sandra L. Etherton
Attorney for Applicant
Registration No. 36,982

Etherton Law Group, LLC
P.O. Box 27843
Tempe, AZ 85285-7843
Tel: 480-966-3331
Fax: 480-966-3339

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TIMOTHY P. O'HAGAN
8710 KILKENNY CT
FORT MYERS FL 33912

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MAY 1 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Adam Dewain Watson	:	
Application No. 10/726,804	:	
Filed: December 3, 2003	:	
Attorney Docket No. AW-001	:	

This is a decision on the petition, filed May 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of :
Benjamin F. James IV et al. :
Application No. 10/726,806 : ON PETITION
Filed: December 3, 2003 :
Attorney Docket No.: IND-38DIV :

This is a decision on the petition filed July 17, 2007. The petition is title "Petition to Revive" but will be treated under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on June 19, 2007, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on March 16, 2007. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on July 11, 2007.

Petitioner asserts that the issue fee transmittal and an authorization to charge the issue were filed by facsimile transmission on June 13, 2007.

In support, petitioner has submitted, *inter alia*, a copy of the issue fee transmittal form with the certificate of mailing or transmission dated June 13, 2007 pursuant to 37 CFR 1.8, and a copy of the Auto-Reply Facsimile Transmission acknowledging receipt by the U.S. Patent and Trademark Office.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3641 for appropriate action on the amendment filed August 3, 2005, a copy of which was submitted December 16, 2005 with the instant petition.

A search of the application file and the USPTO records does not reveal receipt of the

issue fee transmittal but, the petition complies with the requirements set forth in 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment mailed on July 11, 2007, is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Application of :
Zhu :
Application No. 10/726,812 :
Filed: December 2, 2003 :
Attorney Docket No. 019680-007800US :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed May 12, 2009. Applicant requests the initial determination of patent term adjustment be corrected from zero (0) days to four hundred thirty-seven (437) days.

The application for patent term adjustment is **granted to the extent indicated herein.**

The Office has updated the PALM screen to reflect changes to the patent term calculation. However, the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance remains 0 days. A copy of the updated PALM screen is enclosed.

On February 13, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. Applicant was advised of a patent term adjustment to date of 0 days. In response, applicant timely filed this application for patent term adjustment with the issue fee on May 12, 2009.

Applicant requests the patent term adjustment be corrected to 437 days.

Applicant contends the mailing of the August 28, 2008 Office action should have resulted in an 89-day increase in patent term adjustment is appropriate under 37 C.F.R. § 1.703(a)(3).

As stated in 37 C.F.R. § 1.703(a)(2), Office delay under 37 C.F.R. § 1.702(a) includes,

> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

An amendment was filed January 31, 2008. An Office action under 35 U.S.C. § 132 was mailed on May 12, 2008, within four months after the date the amendment was filed. Therefore, an

increase in patent term adjustment due to Office delay in responding to the amendment would be inappropriate.

The Office recognizes the examiner subsequently mailed a new Office action and restarted the period for reply. However, the mailing of the new Office action does not change the fact an Office action under 35 U.S.C. § 132 was mailed within four months of the filing of the January 31, 2008 amendment.

For the reasons above, the Office acted properly when the Office did not increase the patent term adjustment as a result of the mailing of the August 28, 2008 Office action.

Applicant contends the filing of an amendment on November 24, 2008, should not have resulted in a reduction in patent term adjustment.

Applicant filed an amendment on November 24, 2008. Although the date of November 24, 2008, is less than three months after the date the Office mailed the August 28, 2008 Office action, the date is three months and 104 days after the Office mailed the May 12, 2008 Office action.

The Office entered a 104-day reduction in patent term adjustment as a result of the amendment filed November 24, 2008.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n 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.

In view of all the facts in this case, the three-month time period set forth in 37 C.F.R. § 1.704(b) began August 28, 2008, not May 12, 2008. The November 24, 2008 amendment was filed within three months of the Office mailing the August 28, 2008 Office action. Therefore, a reduction in patent term adjustment under 37 C.F.R. § 1.704(b) is unwarranted.

The Office has removed the 104-day reduction in patent term adjustment resulting from the filing of the November 24, 2008 amendment.

A review of the record indicates an additional adjustment to the patent term adjustment is appropriate as a result of papers filed November 30, 2007, and January 31, 2008.

The Office mailed a final Office action on August 2, 2007. Applicant filed a Request for Continued Examination ("RCE") and an amendment on November 30, 2007. The Office mailed a Notice of Non-Compliant Amendment on January 25, 2007. Applicant filed a proper amendment on January 31, 2007. The Office did not enter a reduction to patent term adjustment under 37 C.F.R. § 1.704(c)(7).

37 C.F.R. § 1.704(c)(7) states circumstances that will result in a reduction in patent term adjustment include,

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Manual of Patent Examining Procedure § 2732 states,

> The reference to 37 CFR 1.135(c) is parenthetical because 37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq.

A review of the record indicates the reply filed November 30, 2007, failed to comply with the rules. As a result, the Office was required to mail a Notice of Non-Compliant Amendment and wait for, and process, the January 31, 2008 reply prior to further consideration of the merits of the case. Therefore, a reduction under 37 C.F.R. § 1.704(c)(7) is appropriate.

The proper reduction is 62 days which is the number of days beginning November 30, 2007, the day after the date a reply with an omission was filed, and ending on January 31, 2007, the date a reply correcting the omission was filed.

In view of the prior discussion, the Office has entered a 62-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7).

Applicant asserts a 363-day increase in patent term adjustment is appropriate pursuant to 37 C.F.R. § 1.702(b).

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* 37 C.F.R. § 1.702(b). (This is true even when a request for continued examination has been

filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date, not just the projected date, of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 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 C.F.R. § 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, the Office will not consider the request at this time.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 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 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 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]

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 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Conclusion

The Office has removed the 104-day reduction in patent term adjustment resulting from the filing of the November 24, 2008 amendment.

The Office has entered a 62-day reduction under 37 C.F.R. § 1.704(c)(7) as a result of applicant filing a paper with an omission on November 30, 2007.

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

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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 patent term adjustment at the time of mailing of the notice of allowance is 0 days which is which is 303 days of Office delay reduced by 380 days of applicant delay.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Friday
Date: 4/30/2010

PALM INTRANET

Time: 15:22:45

PTA Calculations for Application: 10/726812			
Application Filing Date:	12/02/2003	PTO Delay (PTO):	303
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	422
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	42		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
109	04/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
108	04/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	104		
82	02/13/2009	MAIL NOTICE OF ALLOWANCE			
81	02/12/2009	ISSUE REVISION COMPLETED			
80	02/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	02/12/2009	DOCUMENT VERIFICATION			
78	02/12/2009	EXAMINER'S AMENDMENT COMMUNICATION			
77	02/12/2009	NOTICE OF ALLOWABILITY			
76	02/09/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
73	12/12/2008	DATE FORWARDED TO EXAMINER			
72	11/24/2008	RESPONSE AFTER NON-FINAL ACTION		104	66
71	11/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	11/18/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
69	11/17/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	08/28/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
67	08/25/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
66	05/12/2008	MAIL NON-FINAL REJECTION			
65	03/17/2008	NON-FINAL REJECTION			
64	09/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	07/30/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
62	02/12/2008	DATE FORWARDED TO EXAMINER			
61	01/31/2008	RESPONSE AFTER NON-FINAL ACTION			
60	01/25/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
59	01/22/2008	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
58	12/13/2007	DATE FORWARDED TO EXAMINER			
57	11/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
56	12/13/2007	DATE FORWARDED TO EXAMINER			
55	11/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		28	41
54	12/13/2007	DISPOSAL FOR A RCE / CPA / R129			
53	11/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	12/04/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
51	11/29/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
50	11/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	10/16/2007	MAIL ADVISORY ACTION (PTOL - 303)			
48	10/11/2007	ADVISORY ACTION (PTOL-303)			
47	10/04/2007	DATE FORWARDED TO EXAMINER			
46	09/28/2007	AMENDMENT AFTER FINAL REJECTION			
45	09/27/2007	REFERENCE CAPTURE ON IDS			
44	09/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	09/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	07/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		73	37
41	08/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
40	07/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	07/31/2007	FINAL REJECTION			
38	05/22/2007	DATE FORWARDED TO EXAMINER			
37	05/18/2007	RESPONSE AFTER NON-FINAL ACTION		26	33
36	05/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

35	05/21/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
34	03/11/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	01/22/2007	MAIL NON-FINAL REJECTION			
32	01/17/2007	NON-FINAL REJECTION			
31	01/04/2007	DATE FORWARDED TO EXAMINER			
30	12/21/2006	AMENDMENT AFTER FINAL REJECTION		26	28
29	12/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	08/25/2006	MAIL FINAL REJECTION (PTOL - 326)			
27	08/21/2006	FINAL REJECTION			
26	08/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	08/14/2006	REFERENCE CAPTURE ON IDS			
24.7	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		74	21
24	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	06/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	06/08/2006	DATE FORWARDED TO EXAMINER			
21	06/01/2006	RESPONSE AFTER NON-FINAL ACTION		91	19
20	06/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	12/02/2005	MAIL NON-FINAL REJECTION	303		-1
18	11/28/2005	NON-FINAL REJECTION			
17	10/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	05/24/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	05/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	01/15/2005	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
13	03/05/2004	APPLICATION RETURN FROM OIPE			
12	03/05/2004	APPLICATION RETURN TO OIPE			
11	03/05/2004	APPLICATION RETURN FROM OIPE			
10	03/05/2004	APPLICATION IS NOW COMPLETE			
9	03/05/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
8	03/05/2004	APPLICATION RETURN TO OIPE			
7	03/03/2004	APPLICATION DISPATCHED FROM OIPE			
6	03/04/2004	APPLICATION IS NOW COMPLETE			

5	12/02/2003	PGPUBS NONPUB REQUEST			
4	02/10/2004	CLEARED BY OIPE CSR			
3	02/10/2004	CASE CLASSIFIED BY OIPE			
2	12/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/02/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Giambattista Zambelli	: DECISION ON REQUEST FOR
Patent Number	: 7632191	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/726,830	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1616** 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.:20080401

DATE : April 2, 2008

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction on Patent No.: 6,869,137

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: /Glenn Dayoan/ **Art Unit** 3612

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080304

DATE : April 23, 2008

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction on Patent No.: 6,869,137

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: /Glenn Dayoan/ **Art Unit** 3612

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CHICAGO, IL 60610

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of
Brady et al.
Application No. 10/726,851
Filed: December 2, 2003
Attorney Docket No.
03-971

ON PETITION

This is a decision on the Petition Under 37 CFR 1.78(a)(3), filed August 5, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior filed nonprovisional application No. 10/685,907.

This Petition is hereby **dismissed**.

Applicable Law

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

The instant petition does not comply with item (**1**) above.

As to (**1**), the amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

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

Any questions concerning this matter may be directed to Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks
Lead Paralegal
Office of Petitions

---

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:
Brady et al.	:
Application No. 10/726851	: DECISION ON PETITION
Filing or 371(c) Date: 12/02/2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4672/369	:

This is a decision on the Renewed Petition under 37 C.F.R. § 1.78(a)(3), filed September 18, 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 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 3691 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.

Christina Tartere Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/726,851	12/02/2003	3691	568	4672/369	17	26	6

CONFIRMATION NO. 5641

CORRECTED FILING RECEIPT

OC000000022679406

49664
BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 02/28/2007

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)

Neal Brady, Evanston, IL;
Tom Paronis, New York, NY;
Christopher S. Whittington, Streamwood, IL;
Paul A. Schmid, Chicago, IL;
Jon Dahl, Plainfield, IL;

Assignment For Published Patent Application

Liquidity Direct, a corporation of the State of Illinois

Power of Attorney: The patent practitioners associated with Customer Number **00757**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/685,907 10/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/726,851

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for providing option spread indicative quotes

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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P.O. BOX 10395
CHICAGO IL 60610

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MAR 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,584,140	:	DECISION ON REQUEST
Brady et al.	:	FOR
Issued: September 1, 2009	:	RECONSIDERATION OF
Application No. 10/726,851	:	PATENT TERM ADJUSTMENT
Filed: December 2, 2003	:	and
Atty Docket No. 4672/369	:	NOTICE OF INTENT TO ISSUE
(2002-002-CIP)	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 29, 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 three hundred eighty-eight (1,388) 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 three hundred eighty-eight (1,388) 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 December 3, 2006 and ends on November 20, 2008, the day before the RCE was filed, and is 719 (not 720) days. See 35 U.S.C. 154(b)(1)(B)(i). Taking the 500 day overlap into consideration, the patent term adjustment is 1,387, not 1,388 days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred eighty-seven (1,387) days**.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,584,140 B2

DATED : September 1, 2009

INVENTOR(S) : Neal Brady, 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 (1,168) days

Delete the phrase "by 1,168 days" and insert – by 1,387 days--

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MAY 2 3 2008

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application of	:	
Paul Walker	:	
Application No. 10/726,858	:	NOTICE
Filed: December 2, 2003	:	
Attorney Docket No. 1801270.00133US1	:	

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)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Irvin Dingle
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Stephan Pendorf
Akerman Senterfitt
222 Lakeview Avenue, Suite 400
PO Box 3188
West Palm Beach, FL 33402-3188

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of Scherrer et al.	:	
Application No. 10/726,874	:	Decision on Petition
Filing Date: December 3, 2003	:	
Attorney Docket No. 3953-164	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 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 October 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 7, 2006. A Notice of Abandonment was mailed on April 13, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

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

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of	: DECISION ON REQUEST
Daniel P. Edwards et al	: UNDER 37 CFR 1.97
Serial No: 10/726,884	: FOR CONSIDERATION
Filed: December 3, 2003	: OF INFORMATION
For: CENTRIFUGAL CLUTCH WITH SHOE	: DISCLOSURE STATEMENT
RETAINING FEATURE	:

The request under 37 CFR 1.97(d) for consideration of an information disclosure statement filed on March 10, 2005 after allowance has been:

(X) GRANTED.

( ) DENIED.

The request lacks:

( ) The required fee under 37 CFR 1.97(d)(2) and 1.17(p).

( ) A proper certification as specified in 37 CFR 1.97(e)(1) or 1.97(e)(2). 37 CFR 1.97(e)(1) requires statement to include that each item of information contained in the IDS was **first** cited in **any** communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the IDS.

The information disclosure statement has been placed of record in the file and will be considered by the examiner. See Federal Register 65 Fed. Reg. 54603 (September 8, 2000); Official Gazette 1238 Off. Gaz. Pat Office 77 (September 19, 2000) for rule changes fo 37 CFR 1.97.

Charles A. Marmor

Charles A. Marmor, SPE
Art Unit 3681
(571) 272-7095

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P.O. Box 1450
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P O BOX 1590
ROSHARON, TX 77583-1590

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Colin J. Price-Smith et al	:	
Application No. 10/726,892	:	DECISION ON PETITION
Filed: December 3, 2003	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 68.0294DIV	:	

This is a decision on the petition, filed April 6, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee for purposes of express abandonment.

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue for express abandonment and the abandonment is recognized.

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

This abandoned matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHENG (TED) TAI TSAO
2979 HEIDI DRIVE
SAN JOSE, CA 95132

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Sheng (Ted) Tai Tsao	:	
Application No. 10/726,897	:	DECISION ON PETITION
Filed: December 4, 2003	:	
Attorney Docket No.	:	

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 application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed March 5, 2004 and re-mailed December 13, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2005.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to the Office of Patent Application Papers for processing of the reply previously filed January 18, 2005.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

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FEB 0 9 2005

OFFICE OF PETITIONS

Applicant: Jung
Appl. No.: 10/726,925
Filing Date: December 3, 2003
Title: PROCESS FOR CONTROLLING AN IMAGE RECORDING AND CONTROL APPARATUS THEREFOR
Pub. No.: US 2004/0109593 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 5, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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NOV 0 2 2006

OFFICE OF PETITIONS

In re Application of
James P. Beckham
Application No. 10/726,960
Filed: December 3, 2003
Attorney Docket No. 2979120006401

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 2006.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PROSKAUER ROSE, LLP
1001 PENNSYLVANIA AVENUE NW
SUITE 400 SOUTH
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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VINCENT BELUSKO
MORRISON & FOERSTER, LLP
555 W FIFTH ST.
SUITE 3500
LOS ANGELES, CA 90013

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JUL 07 2008

In re Application of	:	
James P. Beckham.	:	
Application No. 10/726,960	:	DECISION ON PETITION
Filed: December 3, 2003	:	TO WITHDRAW
Attorney Docket No. 2297912006401	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 22, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on November 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD W. WIGHT
RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626-1931

UNITED STATES PATENT AND TRADEMARK OFFICE

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

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SEP 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Eric C. Erike :
Application No. 10/726,961 : DECISION ON PETITION
Filed: December 3, 2003 :
Attorney Docket No. :
TRW(VSSIM)5875-1

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

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 27, 2006, which set a shortened statutory period for reply of three (3) months. A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 28, 2006. A Notice of Abandonment was mailed on December 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of April 27, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1742 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received January 22, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 06, 2008

TO SPE OF : ART UNIT 2115

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/726,972 Patent No.: 7100058 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

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UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 26 2007

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

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of	:
David H. Meyeer et al	:
Serial No.: 10/727,007	: PETITION DECISION
Filed: December 3, 2003	:
Attorney Docket No.: 1388-033/63326	:

This is a response to the petitions under 37 CFR 1.59(b), filed November 14, 2006, to expunge information from the above identified application.

Petitioner requests that a document submitted November 14, 2006, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This application has not yet been examined on the merits. A request for information under 37 CFR 1.105 was mailed to applicants on June 14, 2006. In response, applicants have submitted a Proprietary Information Document, but the information provided has not been reviewed and the petition cannot be granted at this time. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

The application will be forwarded to the examiner for consideration of the information submitted and further action as warranted.

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

George Elliott
Director, Technology Center 1600

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DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of	:
David H. Meyer	:
Serial No.: 10/727,007	: PETITION DECISION
Filed: December 3, 2003	:
Attorney Docket No.: 63326	:

This is a response to the renewed petition under 37 CFR 1.59(b), filed May 17, 2007, to expunge information from the above identified application. The application has now been allowed.

Petitioner requests that the document submitted as an affidavit under 37 CFR 1.132 in response to a Request for Information are proprietary and constitute a Proprietary Information Disclosure. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid. In applicants' previous petition it was unclear as to which specific documents contained in the IDS were proprietary material to be returned. The application has now been allowed and the documents found not to affect the determination of patentability.

The petition is **GRANTED.** The expunged document is returned herewith.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 703872-9306.

Christopher Low
Director, Technology Center 1600

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NUVELO, INC
675 ALMANOR AVE.
SUNNYVALE, CA 94085

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OFFICE OF PETITIONS

In re Application of :
Emtage, et al. :
Application No. 10/727,012 :
Filed: December 2, 2003 :
Attorney Docket No. NUVO-02CP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, 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 April 13, 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 September 1, 2005, was mailed May 26, 2005.

This application is being forwarded to Technology Center 1600.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

United States
Patent And
Trademark Office

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

PETITION DECISION

02/27/04

David Hall
Heller, Ehrman, White & McAuliffe LLP
4350 La Jolla village Drive, Suite 600
San Diego, CA 92122-1246

Dear Applicant:

The Box PGPub replacement drawings for application number 10/727018 received on 01/09/04 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

04/12/04

David A. Hall
Heller, Ehrman, White & McAuliffe LLP
4350 La Jolla Village Drive, Suite 600
San Diego, CA 92122-1246

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/727018 received on 01/23/04 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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P.O. BOX 1450
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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In re Patent No. 7,312,560	:	
Issue Date: December 25, 2007	:	
Application No. 10/727,026	:	ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. 59417US002	:	

This is a decision on the petition filed April 18, 2008, which is being treated as a request under 37 CFR 3.81(b) to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Petitioner has provided a request for a certificate of correction under § 1.323 and the $130 processing fee set forth in § 1.17(i). However, petitioner did not submit the $100 fee for the certificate of correction, as it is alleged that the error in naming the assignee resulted because of USPTO error.

Petitioner is reminded that the assignee's name and address which is printed on the patent is based solely on the information supplied by applicant on the Issue Fee Transmittal Form. Therefore, in order to correct applicant's error in providing the incorrect assignment data, all the requirements of 37 CFR 3.81(b) must be satisfied, including the $100 fee required by § 1.20(a).

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

The Certificates of Correction Branch is instructed to issue a certificate of correction <u>upon submission of the $100 certificate of correction fee.</u> *No certificate of correction will be issued which sets forth an assignee other than 3M Innovative Properties Company, the assignee set forth in the instant request. A copy of this decision* ***<u>must</u>*** *accompany certificate of correction fee.*

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
KOHANE, Daniel S. et al.	:	
Application No. 10/727,032	:	DECISION ON PETITION
Filed: December 02, 2003	:	TO WITHDRAW
Attorney Docket No. **0492611-0532 (MIT 9851)**	:	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 13, 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 Brenda H. Jarrell on behalf of all attorneys of record who are associated with customer No. 24280. All attorneys/agents associated with the Customer Number 24280 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 Daniel Kohane at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialst
Office of Petitions

cc: **DANIEL S. KOHANE**
41 LESLIE ROAD
NEWTON MA 02459

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PEARSON & PEARSON, LLP
10 GEORGE STREET
LOWELL, MA 01852

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OFFICE OF PETITIONS

In re Application of	:	
BLUNDO	:	
Application No.: 10/727,082	:	DECISION ON PETITION
Filing Date: December 3, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 32978	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006 and October 17, 2006, 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 24, 2005, 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 25, 2005.

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 petition does not satisfy item (1) above. In particular, the Office of Petitions has been advised that there were insufficient funds in Deposit Account No. 16-0875 to cover the excess number of independent claims which would be added by the proposed amendment if it were to be entered.

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.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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PEARSON & PEARSON, LLP
10 GEORGE STREET
LOWELL, MA 01852

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OFFICE OF PETITIONS

In re Application of	:	
BLUNDO	:	
Application No.: 10/727,082	:	DECISION ON PETITION
Filing Date: December 3, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 32978	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 22, 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 24, 2005, 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 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (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 24, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3635 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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OFFICE OF PETITIONS

In re Application of	:	
Luo et al.	:	
Application No. 10/727,083	:	ON PETITION
Filed: 2 December, 2003	:	
Attorney Docket No. 2267.006	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on 17 September, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

On 2 December, 2003, the present application was filed. On 4 March, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing. A two (2) month period for reply was set. The present petition was filed on 17 September, 2004, accompanied by a four (4) month extension of time, the statutory basic filing fee, the late filing surcharge, and an executed declaration.

Since the basic filing fee, declaration, and surcharge filed on 17 September, 2004, were filed within the extendable period for reply to the Notice mailed on 4 March, 2004, the application did not become abandoned. The petition under 37 CFR 1.137(a) is therefore unnecessary and will be dismissed as moot.

The petition fee of $55.00 is unnecessary. However, a five (5) month extension of time fee is due and will be charged to counsel's deposit account. In accordance with the authorization filed on 8 October, 2004, counsel's deposit account, No. 13-0439 will be charged a total of $245.00.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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July 31, 2008

Mary R. Olynick
Weaver Austin Villeneuve & Sampson LLP
P. O. Box 70250
Oakland, CA 94612-0250

Patent No.: 7,305,454 B2
Application No.: 10/727,089
Inventor(s): David Byrne Reese, et al.
Issued: December 4, 2007
Title: APPARATUS AND METHODS FOR PROVISIONING SERVICES

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
PO BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Patent No. 7,305,454	:	
Issue Date: December 4, 2007	:	
Application No. 10/727,089	:	DECISION ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. ODVFP003	:	

This is a decision on the "PETITION FOR CORRECTION OF ASSIGNEE ON PATENT AND FOR SUSPENSION OF RULES (MPEP § 1481, 37 C.F.R. § 1.183", filed March 4, 2009.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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JUN 29 2004

In re Application of
Brian E. Baldwin *et al*
Application No. 10/727,097
Filed: December 3, 2003
Attorney Docket No. 50012-00031

DECISION ON PETITION

This is a decision on the petition to make special filed on February 5, 2004. The $130.00 petition fee has been received.

The petition is dismissed.

The petition to make special fails to specify any particular grounds justifying treatment of the application as special. Accordingly, the petition cannot be evaluated.

Petitioner may file a renewed petition, without fee, specifying a basis upon which special status is sought by petitioner. See MPEP 708.02 *et seq* for the various bases upon which special status may be sought by way of petition. Petitioner should note that there is no necessity to petition for special status of a continuing application.

Any renewed petition to make special must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Marsh Fischmann & Breyfogle LLP
Suite 411
3151 South Vaughn Way
Aurora, CO 80014

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www.uspto.gov

JUL 27 2005

In re Application of Brian E. Baldwin Serial No. 10/727,097 Filed: December 3, 2003 For: METHOD AND SYSTEM FOR LABELING SYRINGE BODIES	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed April 1, 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

Thomas R. Marsh
3151 South Vaughn Way, Suite 411
Aurora, CO 80014

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re Application of	:
Fitzgerald	: DECISION REFUSING STATUS
Application No. 10/727,118	: UNDER 37 CFR 1.47(b)
Filed: December 2, 2003	:
Atty. Dkt. No.: CDPC-P01-003	:
For: ETHERNET NETWORK	:
AVAILABILITY	:

This decision is in response to the petition under 37 CFR 1.47(b), filed December 7, 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 December 2, 2003 without an executed oath or declaration and naming Jeffrey Fitzgerald as sole inventor. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed March 4, 2004. The Notice required, *inter alia*, an executed oath or declaration and a surcharge.

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 requirements (1), (2), and (5) set forth above.

As to item (1), petitioner has failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration. Petitioner merely states that a declaration was sent to the non-signing inventor via mail and email.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor or the legal representative of the non-signing inventor. A copy of the application papers should be sent to the last known address of the nonsigning inventor or to the address of the non-signing inventor's attorney. See, MPEP 409.03(d). Any renewed petition must be accompanied by evidence that the inventor, after having been presented with the complete application papers, refused to execute the oath or declaration.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration is unacceptable because it has not been executed on behalf of the non-signing inventor. 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.

Any renewed petition must be accompanied by a properly executed oath or declaration.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum

signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to 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. U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Questions regarding the content of this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:
Fitzgerald	:
Application No. 10/727,118	:
Filed: December 2, 2003	: DECISION NOTING JOINDER
Atty. Dkt. No.: CDPC-P01-003	: OF INVENTOR AND PETITION
For: ETHERNET NETWORK	: UNDER 37 CFR 1.47(b) MOOT
AVAILABILITY	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed January 10, 2005, 2004.

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

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) 272-3205.

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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BANNER & WITCOFF LTD
AND ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR
SUITE 3000
CHICAGO IL 60606

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APR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Parente, et al.	:	
Application No. 10/727,128	:	DECISION ON PETITIONS
Filed: December 23, 2003	:	
Attorney Docket No. 006943.00193	:	

This is a decision on the petition under 37 CFR 1.59(b), filed October 19, 2007.

The petition to expunge is **GRANTED**.

As set forth in MPEP 724.05, a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

As the instant application is an Image File Wrapper (IFW), the petition to expunge will be effectuated by closing the record concerned to the public.

The matter is being forwarded to Group Art Unit 1794.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 01-054

Paper No: __

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of
English :
Application No. 10/727,139 : ON PETITION
Filed: 2 December, 2003 :
Attorney Docket No. CDPC-011 :

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 7October, 2004.

The petition is **DISMISSED**.

NOTE: Any petition (and fee) for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)" and may include an oath or declaration executed by the inventors.

Thereafter there will be no further reconsideration. Failure to respond will result in abandonment of the application.

BACKGROUND

The record indicates:

- this application was filed on 2 December, 2003, without, *inter alia*, an executed oath or declaration by the named inventor;
- accordingly, on 4 March, 2004, the Office mailed a Notice of Missing Parts;

- in response to the Notice of Missing Parts, Petitioner filed the instant petition (over a 4 October, 2004, certificate of mailing) on 7 October, 2004 (with a request and fee for a five-(5-) month extension of time and the surcharge) by Petitioner Edward J. Kelley (Reg. No. 38,936)–while Petitioner alleges transmission of the entire application (specification, claims and drawings) to the non-signing inventor Daniel W. English (Mr. English), Petitioner fails to provide a copy of the transmittal letter in support of the allegation and fails to make and support allegation of rights/interest in the application and risk of irreparable harm/damage.

Moreover, Petitioner failed to include a signed oath/declaration executed by an authorized executive of the alleged assignee on behalf of the non-signing inventor.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
>
> * * *
>
> (b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including

> the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same). Moreover, Petitioner must make and support allegations of rights/interest in the application and of risk of irreparable harm/damage.

Finally, Petitioner must include a signed oath/declaration executed by an authorized executive of the alleged assignee on behalf of the non-signing inventor.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

Therefore, the instant petition must be and hereby is **dismissed**.

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

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)

---

[1] See: MPEP 409.03(b).

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

ATTN.: Office of Petitions

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-05

Paper No: __

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of
English :
Application No. 10/727,139 : ON PETITION
Filed: 2 December, 2003 :
Attorney Docket No. CDPC-P01-011 :

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 10 February, 2005.

The petition is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- this application was filed on 2 December, 2003, without, *inter alia*, an executed oath or declaration by the named inventor;

- accordingly, on 4 March, 2004, the Office mailed a Notice of Missing Parts;

- in response to the Notice of Missing Parts, Petitioner filed the original petition (over a 4 October, 2004, certificate of mailing) on 7 October, 2004 (with a request and fee for a five-(5-) month extension of time and the surcharge) by Petitioner Edward J. Kelley (Reg. No. 38,936)–while Petitioner alleges transmission of the entire application (specification, claims and drawings) to the non-signing inventor Daniel W. English (Mr. English), the petition was dismissed on 21 January, 2005, because Petitioner failed to provide a copy of the transmittal letter in support of the allegation and fails to make and support allegation of rights/interest in

the application and risk of irreparable harm/damage and failed to include a signed oath/declaration executed by an authorized executive of the alleged assignee on behalf of the non-signing inventor;

- it now appears that the oath/declaration has been signed by the inventor.

In view of the joinder of the inventor, further consideration under Rule 1.47 is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 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 Rule 1.47.

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being forwarded for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 29 2004

In re Application of
Brian Eugene Baldwin
Application No. 10/727,142
Filed: December 3, 2003
Attorney Docket No. 50012-00004

DECISION ON PETITION

This is a decision on the petition to make special filed on February 5, 2004. The $130.00 petition fee has been received.

The petition is dismissed.

The petition to make special fails to specify any particular grounds justifying treatment of the application as special. Accordingly, the petition cannot be evaluated.

Petitioner may file a renewed petition, without fee, specifying a basis upon which special status is sought by petitioner. See MPEP 708.02 *et seq* for the various bases upon which special status may be sought by way of petition. Petitioner should note that there is no necessity to petition for special status of a continuing application.

Any renewed petition to make special must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Marsh Fischmann & Breyfogle LLP
Suite 411
3151 South Vaughn Way
Aurora, CO 80014

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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MAILED

APR 13 2005

Director's Office
Group 3700

Thomas R. Marsh
3151 Sough Vaughn Way, Suite 411
Aurora, Colorado 80014

In re application of
Baldwin

Serial Number: 10/727142
Filed: April 01, 2005

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

For: **METHOD FOR HANDLING SYRINGE BODIES**

This is a decision on the petition filed on December 3, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

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

rt: 4/12/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: David K. Swanson	: DECISION ON REQUEST FOR
Patent Number	: 7608072	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/727,149	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2003	: 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

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

JUL 28 2005

In re Application of	:	
Kenneth A. Vlazny et al.	:	
Serial No. 10/727,154	:	DECISION ON PETITION
Filed: December 2, 2003	:	
For: METHODS AND SYSTEMS FOR PRESENTING PARI-MUTUEL BETTING OPTIONS AND CONSTRUCTING WAGERS	:	

This is a decision on the petition to make special filed on May 2, 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 3713 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

Andrew F. Nilles
TraskBritt, PC
P.O. Box 2550
Salt Lake City, UT 84110-2550

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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Haeupl et al.	:	
Application No. 10/727,167	:	DECISION REFUSING STATUS
Filed: December 1, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. F-8070	:	
Title: Tools For Diagnostics, Molecular Definition	:	
and Therapy Development for Chronic	:	
Inflammatory Joint Disease		

This is in response to the petition filed August 19, 2004, under 37 CFR. §1.47(a).

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 December 1, 2003, without an executed oath or declaration. Accordingly, on March 17, 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 May 17, 2004. A reply was submitted on April 5 and April 6, 2004. The Office mailed a Notice of Incomplete reply on April 15, 2004 stating that the time period continued to run from the original Notice.

In reply, applicant filed a petition, and declaration of Helmut Wehlan. To make the reply timely, a three (3) month extension of time was also submitted.

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 (1).

As to item (1), rule 47 applicant has failed to show that inventors Ungethuem and Blaess were ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). Paragraph 13 of the declaration of Helmut Wehlan states only the declaration and assignment documents were sent to the inventors. Petitioner also states that a copy of the letters sent to the inventors has been enclosed as exhibits C and D. However, a review of the record shows the exhibits have not been translated to English. Nor is the Office in receipt of the refusal of inventor Blaess purportedly conveyed via e-mail. Further the sending of application papers to inventor Ungethuem via e-mail is only acceptable where inventor has acknowledged receipt of the e-mail. It is possible that inventor Ungethuem no longer receives mail at the e-mail address or the documents sent were not viewable by the inventor.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries 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
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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

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In re Application of	:	
Allerton et al.	:	
Application No. 10/727168	:	ON PETITION
Filing Date: 12/02/2003	:	
Attorney Docket Number:	:	
PC25420A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 15, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

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 16, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 17, 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, and the submission required by 37 CFR 1.114; (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) 272-3232.

This application is being referred to Technology Center AU 1626 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.

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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SEP 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Application of Mary C. Tannenbaum Application No. 10/727,177 Filed: December 3, 2003 For: **TIME-CONTROLLED MESSAGING SYSTEM**	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed December 18, 2003 pursuant to Manual of Patent Examination Procedure §708.02, section VIII, requesting accelerated.

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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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SEP 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Application of	:	
Mary C. Tannenbaum	:	
Application No. 10/727,177	:	DECISION ON PETITION TO
Filed: December 3, 2003	:	MAKE SPECIAL
For: **TIME-CONTROLLED MESSAGING SYSTEM**	:	

This is a decision on the petition filed December 18, 2003 pursuant to Manual of Patent Examination Procedure §708.02, section VIII, requesting accelerated.

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

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

Mail Date: 04/20/2010

Applicant	: Miroslav Cina	: DECISION ON REQUEST FOR
Patent Number	: 7574438	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/727,183	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **717** 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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2-041 AU
AUSTRALIA

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of Walmsley :
Application No. 10/727,198 : Decision on Petition
Filing Date: December 2, 2003 :
Attorney Docket No. PEA23US :

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 above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 14, 2005, 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 15, 2006. A Notice of Abandonment was mailed on June 8, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2816 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No.

Gerald R. Black
30320 Southfield Road
Southfield MI 48076

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Gerald Black : DECISION ON PETITION
Application No. 10/727,208 :
Filed: December 3, 2003 :
Title: SECURITY AUTHENTICATION:
METHOD AND SYSTEM :

This is a decision on the PETITION FOR REVIVAL UNDER 37 CFR §1.137(b) filed February 14, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed June 28, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective September 29, 2006. A courtesy Notice of Abandonment was mailed on January 9, 2007.

The petition includes the required reply, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2137 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed February 14, 2007.

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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ATTN: CHRISTOPHER DARROW, ESQ.
GREENBERG TRAURIG LLP
SUITE 400E
2450 COLORADO AVENUE
SANTA MONICA CA 90404

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SEP 21 2006
OFFICE OF PETITIONS

In re Application of	:	
KOENEMAN et al.	:	
Application No. 10/727,212	:	DECISION ON PETITION
Filed: December 2, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 58482-010101	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 31, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from one of the inventor, James B. Koeneman, attesting to the fact 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 the undersigned at 571-272-4787.

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 3762 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of	:	
SCHULTZ et al	:	
Application No.: 10/727,220	:	DECISION ON PETITION
Filing Date: December 2, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 59333US002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 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 January 11, 2006, which set a statutory period for reply of three (3) months. 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 April 12, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed January 11, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2818 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

LAW OFFICE OF IDO TUCHMAN (YOR)
ECM #72212
PO Box 4668
New York NY 10163-4668

In re Application of :
Dan, et al. : DECISION ON PETITION
Application No. 10/727,224 :
Filed: December 3, 2003 :
Atty. Dkt. No.: YOR920020340US1 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 18, 2008.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned September 7, 2007 for failure to timely submit a proper reply to the non-final Office action mailed June 6, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 14, 2008.

Petitioners argue that a reply to the non-final Office action was timely filed September 6, 2007 and have provided a copy of the reply alleged submitted. The copy of the reply includes an amendment and an Electronic Acknowledgement Receipt.

The Office received a communication on September 6, 2007. This communication was matched to the serial number identified by practitioner when uploading the communication via the electronic filing system, namely, serial No. 10/614,523. The communication did not timely reach the intended application (10/727,224) due to practitioners' error. As a result of this error, the application became abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that

application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicants failed to correctly identify the application by citing an incorrect application number in the response.

In fact, the response contained multiple conflicting identifiers that would have enabled the Office to correctly determine the intended application, including three different conflicting application numbers (10/727,224; 10/614,523, and 09/821,168), two conflicting attorney docket numbers, two conflicting application titles, and two conflicting application filing dates.

These errors, having been made by applicants' duly authorized and voluntarily chosen legal representative, cannot be deemed correctable, minor errors within the meaning of MPEP 502.

In view thereof, the petition to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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 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 facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SEP 03 2008

LAW OFFICE OF IDO TUCHMAN (YOR)
ECM #72212
PO Box 4668
New York NY 10163-4668

In re Application of Dan, et al. Application No. 10/727,224 Filed: December 3, 2003 Atty. Dkt. No.: YOR920020340US1	DECISION ON PETITION

This decision is in response to the petition renewed under 37 CFR 1.137(b) to revive the above-identified application, filed July 8, 2008.

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

This application became abandoned September 7, 2007 for failure to timely submit a proper reply to the non-final Office action mailed June 6, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 14, 2008. A petition under 37 CFR 1.181 was filed May 18, 2008 and dismissed June 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the required reply, (2) the required petition fee, and (3) a proper statement of unintentional delay.

The correspondence address indicated on the instant petition differs from that contained in the record. While a courtesy copy of this decision is being mailed to the address on the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

This application is being forwarded to Technology Center 2100 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Ido Tuchman
Law Office of Ido Tuchman
82-70 Beverly Road
Kew Gardens, NY 11415

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,241	12/03/2003	Galo Gimenez	200312560-1	4874

7590 04/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
KASSA, HILINA S

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
04/21/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/21/2008 DTERRY
12/08/2003 MDAMTE1 00000120 082025 10727241
02 FC:1202 270.00 CR
03 FC:1201 86.00 CR

FORM PET651G (Rev. 08/07)

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GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA CA 90404

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In re Application of	:	
Tal DAYAN et al.	:	
Application No. 10/727,244	:	DECISION ON PETITION
Filed: December 02, 2003	:	
Attorney Docket No. 76821-200701/US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 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 September 19, 2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 19, 2007. Accordingly, the date of abandonment of this application is September 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

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 documents 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 K. Reichle at (571) 272-6051.

This application is being referred to Publishing Division for processing into a patent.

David Bugel
Petitions Examiner
Office of Petitions

Cc: JOHN P. MORAN
HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE
SUITE 100
WASHINGTON, DC 20006

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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OFFICE OF PETITIONS

In re Application of	:	
John Landau	:	
Application No. 10/727,255	:	DECISION ON PETITION
Filed: December 3, 2003	:	TO WITHDRAW
Attorney Docket No. 449/117	:	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, 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 requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed for items 1-3 listed above.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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MAR 03 2010

OFFICE OF PETITIONS

In re Application of	:	
John Landau	:	
Application No. 10/727,255	:	DECISION ON PETITION
Filed: December 3, 2003	:	TO WITHDRAW
Attorney Docket No. 449/117	:	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 13, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. This change has been made in order to avoid subsequent correspondence being directed to an incorrect address or to a practitioner who has not been appointed as practitioner of record by the applicant.

Accordingly, the request to withdraw from record cannot be approved because the change of correspondence address is not that of : (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. The file record indicates that an assignment has been filed with the Assignment Branch. In order to update the application, a copy of the actual assignment and/or a Statement under 37 CFR 3.73(b), setting forth the proper chain of title must be submitted with any renewed request.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: ITXC IP Holdings Sarl
750 College Road East
Princeton, NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW 10-04

CHRISTOPHER J. WHEWELL
WESTERN PATENT GROUP
6020 TONKOWA TRAIL
GEORGETOWN TX 78628

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of	:	
Tilling et al.	:	
Application No. 10/727,279	:	DECISION DISMISSING
Filed: 3 December, 2003	:	PETITION
Atty Docket No. 120303	:	

This is a decision in reference to the petition filed on 8 October, 2004, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 3 December, 2003, with Figures 47 and 48 described in the specification as a part of the original disclosure.

The petition is dismissed.

On 3 December, 2003, the application was filed.

On 15 September, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 3 December, 2003, but that Figures 47 and 48 described in the specification appeared to have been omitted from the application.

In response, on 8 October, 2004, the present petition was filed. Petitioners argue that Figures 47 and 48 were among the application papers filed on 3 December, 2003, but were lost after receipt in the USPTO. Specifically, petitioners assert that a set of "auxillary" drawings were filed along with the application drawings, and that the USPTO did not process the proper set of drawings.

At the outset, a review of the application papers filed on 3 December, 2003, reveals that only one set of drawings was received and processed by the USPTO. No Figures 47 and 48 were filed on 3 December, 2003, since no such figures were among the application papers received on that date. If petitioners have an itemized stamped postcard acknowledging receipt of Figures 47 and 48 in the USPTO on 3 December, 2003, petitioners should submit that evidence, along with a copy of the omitted figures, with a renewed petition.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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. However, due to the absence in the record of a postcard receipt itemized with respect to the specification that bears a USPTO date stamp of 3 December, 2003, showing that Figures 47 and 48 were received in the USPTO on 3 December, 2003, the application cannot be accorded a filing date of 3 December, 2003, with Figures 47 and 48 as a part of the original disclosure.

It is noted that the first line of the specification in the present application incorporates by reference provisional Application No. 60/432,162.

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

---

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

> continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 47 and 48 described in the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Figures 47 and 48 as a preliminary amendment. If Figures 47 and 48 are filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing.

As the Notice mailed on 15 September, 2004, correctly stated that Figures 47 and 48 *appeared* to have been omitted, the petition was not necessitated by an error on the part of the Office. Therefore, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 3 December, 2003, using only the application papers filed on that date.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 13 2008

OFFICE OF PETITIONS

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

In re Application of	:	
SANDERS, Scott W.	:	
Application No. 10/727,287	:	DECISION ON PETITION
Filed: December 03, 2003	:	TO WITHDRAW
Attorney Docket No. **480062001800**	:	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 05, 2008.

The request is **NOT APPROVED** because it 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, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI, OH 45202-3957

Mail Date: 04/21/2010

Applicant	: Peter M. Bonutti	: DECISION ON REQUEST FOR
Patent Number	: 7615054	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/727,290	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1569** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

Eric T. Krischke (30099-Bonutti)
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

Mail Date: 05/17/2010

Applicant : Peter M. Bonutti
Patent Number : 7615054
Issue Date : 11/10/2009
Application No : 10/727,290
Filed : 12/03/2003

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

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

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

The patent term adjustment has been determined to be **1622** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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Alexandria, VA 22313-1450
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J.C. PATENTS
SUITE 250
4 VENTURE
IRVINE, CA 92618

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OCT 08 2008
OFFICE OF PETITIONS

In re Patent No. 6,964,366	:	
Issued: November 15, 2005	:	
Application No. 10/727,293	:	ON PETITION
Filed: December 2, 2003	:	
Attorney Docket No. JIIL05	:	

This is a decision on the petition, filed December 21, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that an assignment correcting the assignee's name from "BAYCOM-ELECTRONICS TECHNOLOGY CO., LTD" to "BAYCOM OPTO-ELECTRONICS TECHNOLOGY CO., LTD)" was recorded on November 14, 2006, after the date of issuance of this patent.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Further, petitioner will be charged the $130.00 surcharge as authorized.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* 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

04/02/04

Hale and Dorr LLP
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/727306 received on 03/15/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/727,306	12/03/2003	3682	530	114089.120	6	13	2

CONFIRMATION NO. 5202

CORRECTED FILING RECEIPT

OC000000012280160

23483
HALE AND DORR, LLP
60 STATE STREET
BOSTON, MA 02109

Date Mailed: 04/05/2004

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

Applicant(s)

Douglas B. Wilson, Cohasset, MA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/02/2004

Projected Publication Date: 06/09/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Fatigue relieving support for steering wheels and the like

Preliminary Class

074

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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ROGER H. STEIN
WALLENSTEIN WAGNER & ROCKEY, LTD.
53rd FLOOR
311 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6622

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DEC 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Kiamars Hajizadeh, et al.	:	
Application No. 10/727,350	:	DECISION ON PETITION
Filed: December 5, 2003	:	TO WITHDRAW
Attorney Docket No. 3873 P 040	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 18, 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, "we no longer represent the assignee", do 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).

There are no pending office actions at the present time.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. A. MATEEM AHMED
C/O NEW WORLD MEDICAL, INC.
10763 EDISON COURT
RANCHO CUCAMONGA, CA 91730

United States
Patent And
Trademark Office

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

PETITION DECISION

04/02/04

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/727353 received on 01/02/04 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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ALEXANDRIA, VA 22313-1450
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PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of	:	
ADAMS	:	
Application No.: 10/727,366	:	DECISION ON PETITION
Filing Date: December 4, 2003	:	UNDER 37 CFR 1.78
Attorney Docket No.: 2456.2.6.4	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 29, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of the prior-filed application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

A petition for acceptance of a late claim for priority under 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)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed 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 petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

With further regard to item (3) above, the petition states 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." This statement is interpreted as a statement that the 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. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3628 for appropriate action on the amendment submitted November 29, 2006, including consideration by the examiner of the claim for benefit of the prior-filed application.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/727,366	12/04/2003	3628	437	2456.2.6.4	21	4

CONFIRMATION NO. 6962

CORRECTED FILING RECEIPT

OC000000022858774

28049
PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 03/12/2007

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)

Phillip M. Adams, Henderson, NV;

Power of Attorney:

A Pate--36234
Gary Pierce--38019
David Fonda--39672
Hal Baird--42284
Gordon Hill--48664
Daniel Nelson--52063

Domestic Priority data as claimed by applicant

This application is a CON of 10/374,215 02/25/2003 ABN
which claims benefit of 60/437,447 12/31/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/727,366

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Enforcement process for correction of hardware and software defects

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 110104

DEC 7 2004

DUANE MORRIS LLP
100 College Rd. West, Suite 100
Princeton, NJ 08540

In re Application of:	:	
Robinson	:	
Serial No.: 10/727,387	:	DECISION ON REQUEST TO WITHDRAW
Filed: December 4, 2003	:	FROM RECORD
Attorney Docket No.: **LMC-34**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 6, 2004.

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

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

There are no attorneys/agents of record at this time.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070131

DATE : January 31, 2007

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,038,075

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:

Thomas McKenzie

SPE: Thomas McKenzie, Ph.D. **Art Unit** 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,038,075 B2
APPLICATION NO. : 10/727398
DATED : May 2, 2006
INVENTOR(S) : Tanaka 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 46,

Line 45, "C^{1-6}" should read --C_{1-6}--

Line 46, "C^{1-6}" should read --C_{1-6}--

Signed and Sealed this

Nineteenth Day of September, 2006

JON W. DUDAS
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Mark L. Buer	: DECISION ON REQUEST FOR
Patent Number	: 7587587	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/727,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **986** 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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ROBERT A. KENT
HALLIBURTON ENERGY SERVICES
2600 S. 2ND STREET
DUNCAN, OK 73536-0440

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Loyd E. East Jr. et al	:	
Application No. 10/727,453	:	ON PETITION
Filed: December 4, 2003	:	
Attorney Docket No. 2003-IP-011867U1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 2, 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 September 3, 2006.

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

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

This matter is being referred to Technology Center AU 3672 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Carey C. Jordan
Baker Botts L.L.P.
910 Louisiana St.
Houston, TX 77002-4995

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Alexandria, VA 22313-1450
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JANET P. SCHAFER
SCHAFER LAW OFFICE, P.A.
727 TORCHWOOD CIRCLE
NEW BRIGHTON, MN 55112-2538

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Bryan Thomas Johnson	:	
Application No. 10/727,459	:	ON PETITION
Filed: December 3, 2003	:	
Attorney Docket No. 02-4274	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 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 October 24, 2004.

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

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

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

KENNETH E. PERSSON
PO BOX 744
East Rochester NY 14445

COPY MAILED

FEB 09 2005

OFFICE OF PETITIONS

In re Application of
Kenneth E. Persson
Application No. 10/727,463
Filing Date: December 4, 2003
Attorney Docket No. KP-004
Title: SIDE ACTING EXTRACTOR TOOL

DECISION ON PETITION

This is a decision on the petition filed November 15, 2004, requesting that the above-identified application be accorded a filing date of December 4, 2003, with Figures 9C, 10C, and 13B as part of the original disclosure of the application.

The application was deposited December 4, 2003. However, on September 17, 2004, the Office of Initial Patent Examination (OIPE) mailed a notice stating that the application had been accorded a filing date of December 4, 2003, and that the application appeared to have been deposited without Figures 9C, 10C, and 13B.

With the instant petition, Petitioner has submitted a copy of Figures 8, 9A-C, 10A-C, 11, 13B, and 14, along with the petition fee.

With the petition, Petitioner sets forth that Figures 9C, 10C, and 13B were included on filing.

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

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 postcard 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.

It is noted that the electronic file contains 14 pages of drawings, containing Figures 1-2, 3A-B, 4-8, 9A-B, 10A-B, 11A-D, 12A-B, 13, 14A-C, and 15-35. Each of the pages of the drawings containing the header "X/14," with X being 1-14. Page 3/14 contains Figures 5-8. Page 4/14 contains Figures 9A-9B and 10A-10B. Page 6/14 contains Figures 12A-B, 13, and 14A-C.

With the instant petition, Petitioner has submitted three sheets of drawings which contain the headers 3/17, 4/17, and 6/17. Page 3/17 contains Figures 8 and 9A-C. Page 4/17 contains Figures 10A-C and 11. Page 6/14 contains Figures 13B and 14.

Not only does the pagination differ, but both the figures themselves and the figures which appear on pages 3, 4, and 6 differ. Due to the differing pagination and the differing figures between what was submitted on filing and what was submitted with this petition, it is clear that these subsequently submitted pages were not included on filing. The drawings which were submitted on filing contained the pagination "X/14," and 14 consecutively numbered pages were received. As such, it appears that 14 pages were filed, and 14 pages were received. It does not appear that Petitioner included Figures 9C, 10C, and 13B on filing.

Furthermore, each of the drawings submitted with this petition differ from that which was submitted on filing. It appears that Petitioner is attempting to replace the previously filed drawings with these new ones.

The PTO file is the official record of all papers filed in this application. As stated previously, a review of the official file reveals that14 pages of drawings were received on filing. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner has supplied a postcard receipt which states "drawings (17 pages)" and bears a date stamp from OIPE which reads "120403." It is acknowledged 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[1]. It is further noted that Petitioner's Utility Patent Application Transmittal sheet states that 17 pages of drawings were included.

"Prima facie evidence" is defined as evidence such that is sufficient to establish a given fact, and if not rebutted or contradicted, will remain sufficient[2]. As such, if the evidence is rebutted, the same is no longer sufficient. The information on the postcard is clearly contradicted by the pagination which Petitioner himself placed on the drawings submitted on filing. Although the postcard Petitioner has supplied indicates that 17 pages were received on December 4, 2003, the electronic file contains 14 consecutively numbered pages which contain a pagination which makes it clear that only 14 pages were submitted. It is clear that these pages were not supplied on filing.

For these reasons, the petition cannot be granted. The petition is **DISMISSED**.

The figures submitted with the instant petition, will not be entered.

Any renewed petition must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The renewed petition should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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 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.

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

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

1 See MPEP 503, partially reproduced above.
2 See Black's Law Dictionary 1190 (6th ed. 1990).
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

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FROM DIRECTORS OFFICE

OCT 13 2005

TECHNOLOGY CENTER 3600

J. Gordon Thomson, P.C.
1353 Mountainside Crescent
Ottawa, Ontario
CANADA
K1E3G5

In re Application of
Rock Mongrain
Application No. 10/727,484
Filed: December 5, 2003

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: IMPROVED APPARATUS FOR GROUND SUPPORT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on July 5, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed 25 January, 2005.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

SNM/js: 9/27/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 19, 2007

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No. 10/727490 patent no.7160024

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: OKAY TO ENTER 312 AMDT.

DAVID SAMPLE — SPE

1723 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. BOX 1450
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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

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JUN 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Nishikawa et al. : DECISION ON
Application No. 10/727,505 : PETITION
Filed: December 5, 2003 :
Attorney Docket No. Q78746 :

This is a decision on the petition under 37 CFR 1.182, filed April 22, 2004, requesting that the above-identified application be accorded a filing date of December 5, 2003, with drawing Figures 5a, 5b in the Japanese priority document as part of the original disclosure.

On December 5, 2003, the application was filed with three (3) sheets of drawing, consisting of Figures 1(a), 1(b), 1(c), 2, 3, and 4. On March 4, 2004, the Office mailed a Notice of Omitted Items(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of December 5, 2003, and advising applicant that Figures 5a and 5b appeared to have been omitted.

In response, on April 22, 2004, applicant submitted the present petition, a copy of Figures 5a and 5b, and the petition fee. Applicant states that Figures 5a and 5b were submitted with the application on December 5, 2003, as part of the Japanese priority application from which priority was claimed.

A review of the record reveals that three (3) sheets of drawings, consisting of Figures 1(a), 1(b), 1(c), 2, 3, and 4 were submitted with the application papers on December 5, 2003. However, the brief description of the drawings and the body of the specification for this application describe drawings of Figures 1(a), 1(b), 1(c), 2, 3, 4, 5a and 5b. A further review of the record reveals that the application papers, filed on December 5, 2003, included a Japanese foreign priority document, which contained four (4) sheets of drawings, consisting of Figures 1(a), 1(b), 1(c), 2, 3, 4, 5a and 5b.

Accordingly, Figures 5a and 5b, as they appear in the foreign priority document, will be scanned and used during the prosecution of this application.

To the extent indicated above, the petition is granted.

The application will be forwarded to the Office of Initial Examination to process the application with a filing date of December 5, 2003, using the three (3) sheets of drawings (Figures 1(a), 1(b), 1(c), 2, 3, and 4) submitted on that date. The Office is further directed to scan the one (1) sheet of drawings (Figures 5a and 5b) of the Japanese priority document, and to indicate that four (4) sheets of drawings were present on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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1725 K STREET, N.W.
SUITE 1108
WASHINGTON, D.C. 20006

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JUL 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Marbler, et al.	:	
Application No. 10/727,512	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. ATM-2222-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before January 3, 2006 as required by the Notice of Allowability mailed October 3, 2005. Accordingly, this application became abandoned on January 4, 2006. A Notice of Abandonment was mailed on March 17, 2006.

This application is being forwarded to Publishing Division for review of the drawings filed June 19, 2006.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of :
Garrett J. Young :
Application No. 10/727,517 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. 245233US25 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 16, 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 September 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 5, 2006

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction on Patent No.: 6,932,003

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

THE SAME CLAIM WAS SUBMITTED TO THE OFFICE ON THREE SEPARATE OCCASIONS. THE ADDITIONAL PHRASE WAS ASSUMED TO REFER TO THE REPETITIVE NATURE OF THE OPERATION OF THE FURNACE AFTER IT WAS MOVED TO THE SECOND LOCATION.

[signature] 3749

SPE **Art Unit**

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JUN 2 1 2006

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ROBERTS, MLOTKOWSKI & HOBBES
P. O. BOX 10064
MCLEAN, VA 22102-8064

In re Application of Checrallah Kachouh	:	**DECISION ON PETITION**
Appl. No.: 10/727,562	:	**REQUESTING**
Filed: December 05, 2003	:	**WITHDRAWAL OF**
For: MOTOR VEHICLE DOOR LOCK	:	**PREMATURE FINALITY**
	:	**UNDER 37 CFR 1.181**

This is a decision on applicant's petition filed May 25, 2006 requesting withdrawal of premature finality of the office action mailed on February 15, 2006.

The petition is **GRANTED.**

After reviewing the above file, the file history shows that a non-final office action was mailed on September 8, 2005. In this office action, claims 10, 21, and 22 were rejected under 35 USC 112, second paragraph, claims 1-5, 18, 19, 21 and 22 were rejected under 35 USC 102(b) as being anticipated by US Pat. No. 6,390,517 to Ehret, claims 6-9, 11-17, and 20 were objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and claim 10 was indicated as being allowable if rewritten to overcome the rejections under 35 USC 112, second paragraph. Applicant then filed an amendment on December 6, 2005. This amendment amended independent claims 1, 21, and 22, and dependent claims 19 and 20. The remaining claims were left unchanged. In response to the amendment filed on December 6, 2005, the examiner then issued a final rejection that was mailed on February 15, 2006. In this final office action, claims 1-20 were rejected under 35 USC 112, second paragraph, claims 1-5, 10-12, and 20-22 were rejected under 35 USC 102(b) as being anticipated by US Pat. Publication No. 2001/0010427, claim 18 was rejected under 35 USC 103(a) as being obvious in view of the '131 patent, and claims 6-9, 13-17, and 19 were indicated as being allowable if rewritten to overcome the rejections under 35 USC 112, second paragraph. The applicant then filed an after final amendment on May 15, 2006. This amendment attempted to amend independent claims 1 and 21, dependent claim 20, and cancel claim 22. In response to this after final amendment, the examiner issued an advisory action indicating that the new limitations presented in the after final amendment changed the scope of the claims in a manner that would raise new issues and would require further consideration and search. In response to the advisory action, on May 25, 2006 applicant filed the petition requesting withdrawal of premature finality of the office action mailed on February 15, 2006.

Application/Control Number: 10/727,562

The petitioner argues that the finality of the February 15, 2006 office action was not proper because the examiner rejected claims 11 and 12 with a new grounds of rejection when claims 11 and 12 were previously indicated as being objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The petitioner argues that since claims 11 and 12 were not amended, and they were rejected with a new ground of rejection, the Examiner should not have made the action final. The petitioner cited 37 CFR 706.07(a) which states that: "a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art, ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art."

In response to petitioner's arguments, it is agreed that the MPEP does in fact provide the guidance pointed out above by petitioner. However, due to the fact that independent claim 1 was amended in such a manner that the scope of the claim was changed, the new rejection was necessitated by the applicant's amendment. Thus, by amending the scope of independent claim 1, the scope of all claims being dependent upon independent claim 1 is also changed. Even though there were no physical changes specifically to claim 11 or 12, claims 11 and 12 were in fact amended because claim 11 includes all of the limitations of claim 1 and claim 11. In the same manner, claim 12 also includes all of the limitations of claim 1 and claim 12. Therefore, the examiner acted within the guidelines set forth in the MPEP when he made the action mailed on February 15, 2006 final because the applicant's amendment changed the scope of the claims in such a manner that allowed the examiner to reject the claims in view of a new prior art reference. However, during the review of the application in response to the petition, it was discovered that the examiner indicated that claims 8 and 9 would be allowed if rewritten to overcome the 35 USC 112, second paragraph rejections, but rejected claims 10-12. This is not correct, because claims 10-12 depend from claims 8 and 9. Therefore, if claims 8 and 9 would be allowable if rewritten, claims 10-12 would also be allowable due to their dependency on claims 8 and 9. Thus, the rejecting of claims 10-12 by the examiner was improper.

In conclusion, since applicant's amendment necessitated the new grounds of rejection set forth by the Examiner, the final rejection would have been proper. However, since the examiner erroneously rejected claims 10-12, the final rejection was improper. Thus, petitioner's petition is hereby **GRANTED**.

The application will be forwarded to the Supervisory Legal Instruments Examiner for removal of the final rejection status and entry of the amendment received May 15, 2006. The application will then be forwarded to the examiner for consideration of applicant's response.

Any questions regarding this decision should be directed to Brian Glessner at 571-272-6843.

Donald T. Hajec, Director
Patent Technology Center 3600
571-272-5150

DTH;bg: 06/07/06

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Marian Gavrila
535 Burleigh Private
Ottawa ON K1J 1J9 CA CANADA

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of	:	
Gavrila et al.	:	
Application No. 10/727,584	:	
Filed: December 5, 2003	:	DECISION ON
For: HYBRID COMMUNICATION	:	PETITION
TERMINAL - ALARM SYSTEM	:	

This is a decision in response to the correspondence filed December 20, 2005. The correspondence is properly treated as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." 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 Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed March 8, 2004. The Notice required the signature of inventor Gavrila on the oath or declaration, and a late filing fee surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on November 15, 2004; however, the reply was incomplete because Applicant failed to include the late filing fee surcharge.

Applicant was notified that the reply was incomplete in a Notice of Incomplete Reply (Nonprovisional), mailed December 1, 2004.

Applicant was also informed that the period of reply remains as set forth in the Notice.

On January 11, 2005, Applicant submitted the late filing fee surcharge.

A Notice of Abandonment was mailed October 27, 2005.

The instant petition

Applicant files the instant petition and asserts that the late filing fee surcharge of $65.oo was withdrawn from Applicant's credit card account and, having heard nothing further from this Office until receiving the Notice of Abandonment, Applicant's believed that their explanation filed Nocember 15, 2004 was accepted by this Office.

Applicable Law, Rules and MPEP

> 37 CFR 1.135. Abandonment for failure to reply within time period.
> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require.

Analysis and conclusion

Applicant was notified in the March 8, 2004 Notice, that the signature of inventor Gavrila was required on the oath or declaration, and that a late filing fee surcharge was also required. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

As such, Applicant was given until May 8 to file an oath or declaration that included inventor Gavrila's signature, and to file the surcharge. The Notice clearly stated that to avoid abandonment the surcharge must be submitted with the oath or declaration.

Applicant filed the oath or declaration and an explanation on November 11, 2004, over six months after the oath or declaration was due, and failed to include the surcharge as required.

Applicant now asserts that because no further information from this Office was received, Applicant assumed that the explanation was accepted.

Applicant is advised that the application becomes abandoned by operation of law, and not by receipt of notice from this Office. While this Office attempts to notify Applicant's of the status of their applications, it is Applicant's responsibility to have an awareness of the rules, and it is Applicant's responsibility to file a complete and proper reply to the Office communication as required by the Office communication. As stated in 37 CFR 1.135(b), Applicant must submit a complete and proper reply as the condition of the application may require.

Here, the application became abandoned on May 9, 2004 because Applicant failed to file a complete and proper reply by the due date of May 8, 2004. Extensions of time were available, but Applicant did not request any extension of time, nor did Applicant pay for any extension of time. When Applicant filed the reply on November 15, 2004, the Application was already abandoned.

The Notice of Incomplete Reply was sent in error and is hereby withdrawn.

Applicant's options

Applicant must file a petition to revive the application. Applicant is also strongly advised to contact a registered patent attorney. This Office cannot assist in the preparation of patent application papers.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Marian Gavrila
535 Burleigh Private
Ottawa ON K1J 1J9 CA CANADA

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APR 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Gavrila et al.	:	
Application No. 10/727,584	:	
Filed: December 5, 2003	:	DECISION ON
For: HYBRID COMMUNICATION	:	PETITION
TERMINAL - ALARM SYSTEM	:	

This is a decision in response to the Petition to Revive the application under 37 CFR 1.137(b).

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(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 Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed March 8, 2004. The Notice required the signature of inventor Gavrila on the oath or declaration, and a late filing fee surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on November 15, 2004; however, the reply was incomplete because Applicant failed to include the late filing fee surcharge.

Applicant was notified that the reply was incomplete in a Notice of Incomplete Reply (Nonprovisional), mailed December 1, 2004.

Applicant was also informed that the period of reply remains as set forth in the Notice.

On January 11, 2005, Applicant submitted the late filing fee surcharge.

A Notice of Abandonment was mailed October 27, 2005.

The December 20, 2005 petition

Applicant filed a petition on December 20, 2005 to withdraw the holding of abandonment of the application. The petition was dismissed in a Decision mailed February 8, 2006, for failing to meet the requirements of a grantable petition under 37 CFR 1.181(a).

The instant petition

Applicant files the instant petition to revive the application. Applicant filed the oath or declaration and an explanation on November 11, 2004. A review of the oath or declaration reveals that it fails to comply with 37 CFR 1.63.

> 37 CFR § 1.63 Oath or declaration requires:
>
> (a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:
> (1) Be executed, i.e., signed, in accordance with either § 1.66 or § 1.68. There is no minimum age for a person to be qualified to sign, but the person must be competent to sign, i.e., understand the document that the person is signing;
> (2) Identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial;
> (3) Identify the country of citizenship of each inventor; and
> (4) State that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.
>
> (b) In addition to meeting the requirements of paragraph (a) of this section, the oath or declaration must also:

(1) Identify the application to which it is directed;
(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Applicant has failed to satisfy 37 CFR § 1.63(b)(2).

An oath or declaration in compliance with 37 CFR § 1.63 is required.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 30 2009

OFFICE OF PETITIONS

Marian Gavrila
535 Burleigh Private
Ottawa ON K1J 1J9 CA CANADA

In re Application of	:	
Gavrial et al.	:	DECISION ON
Application No. 10/727584	:	PETITION
Filing or 371(c) Date: 12/05/2003	:	
For: HYBRID COMMUNICATION	:	
TERMINAL - ALARM SYSTEM	:	

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

The Petition is hereby **dismissed**.

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

Background

The application as-filed on December 5, 2003, included an oath/declaration identifying as inventors Marian Gravila and Gabriel Patulea; however, the signature of inventor Gravila was missing from the oath/declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), on March 8, 2004. The Notice required a properly signed oath/declaration, and a late filing fee oath or declaration surcharge, set a two (2) month period for reply. Applicant filed a response in the form of an oath or declaration on November 15, 2004; however, the response did not include the late filing fee oath or declaration surcharge. Also of note is that the oath/declaration identified as the sole inventor, Marian Gravila, Petitioner herein. It appears that the second page of the originally filed oath/declaration had been omitted from the oath or declaration filed on November 15, 2004.

The Office mailed a Notice of Incomplete Reply (Nonprovisional) on December 1, 2004, notifying Applicant of the deficient reply. In response, Applicant filed the late filing fee oath or declaration surcharge on January 11, 2005; however, the Notice originally set a two (2) month period for reply and while it allowed for extensions of time, the maximum number of months available for extending the response period was five (5), and including the two (2) month period originally set in the Notice, Applicant had a total of seven (7) months from the mail date of the

Notice, or until October 8, 2004, to file the late filing fee oath or declaration surcharge, and thereby comple the reply to the Notice. (A request and fee for a five month extension of time would also have been required. At the time the late filing fee oath or declaration surcharge was filed on January 11, 2005, the application had become abandoned, and a petition to revive the application was required. Because no complete and proper response to the Notice (mailed March 8, 2004), was received, the application became abandoned on May 9, 2004. A Notice of Abandonment was mailed October 27, 2005.

Applicant filed a petition to withdraw the holding of abandonment on December 20, 2005, wherein Applicant asserted that because the 65.00 surcharge was charged to her credit card, and because no further communication was received from this Office, she believed that the application was in good standing.

The petition was dismissed in a Decision mailed February 8, 2006. The Decision informed Applicant that the application became abandoned by operation of law for failing to file a complete and proper (timely) reply to the Notice. Applicant was further informed that while this Office attempts to notify an Applicant of the status of their applications, it is Applicant's responsibility to have an awareness of the rules, and to file a complete and proper reply to an Office communication as the condition of the application requires.

Applicant filed a petition to revive the application on March 14, 2006, and included an oath/declaration executed by Marian Gravila and Gabriel Patulea. The oath/declaration was defective because it failed to state that the person making the oath/declaration has reviewed and understands the contents of the application.

A further review of the application file reveals that the oath/declaration filed with the original application papers also was defective because, in addition to missing inventor Gavrila's signature, it also failed to state that the person making the oath/declaration has reviewed and understands the contents of the application.

The petition was dismissed in a Decision mailed April 19, 2006. A proper oath/declaration was required.

The present petition

Applicant timely files the present petition and includes an oath/declaration in compliance with 37 CFR 1.63, identifying as and signed by inventors Marian Gravila and Gabriel Patulea.

However, the petition is signed by inventor Marian Gravila only.

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition lacks item (3).

As to item (3), Applicant is advised that the statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

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

<u>Conclusion</u>

The petition is dismissed without prejudice. Applicant should file a grenewed petition signed by both inventors (or a power of attorney or an assignment demonstrating that she has the authority to act alone in the present application).

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

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

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Marian Gavrila
535 Burleigh Private
Ottawa ON K1J 1J9 CA CANADA

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JAN 14 2010

In re Application of	:	
Gavrila et al.	:	
Application No.: 10/727584	:	DECISION ON
Filing or 371(c) Date: 12/05/2003	:	PETITION
Title of Invention:	:	
HYBRID COMMUNICATION	:	
TERMINAL - ALARM SYSTEM	:	

This is a decision on the renewed Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed December 9, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed March 8, 2004. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on May 5, 2004. A Notice of Abandonment was mailed October 27, 2005.

Applicant files the present renewed petition response to the Notice[1]. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply, filed June 8, 2006; (2) the petition fee, filed March 14, 2006, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in the normal course of business.

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

[1] Applicants filed an incomplete response to the Notice on November 15, 2004 and January 11, 2005; petitions to revive the application on December 20, 2005, March 14, 2006 and June 8, 2006 (decided October 30, 2009), and a status request on April 14, 2008.

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JUN 16 2004

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JUN 16 2004

OFFICE OF THE DIRECTOR
TC 3600

KRAMER & AMADO, P.C.
2001 Jefferson Davis HWY
Suite 1101
Arlington VA 22202

In re application of Robert Earl Wills Application No. 10/727,593 Filed: December 5, 2003 For: BEEHIVE FEEDER	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on January 7, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a affidavit signed by Mr.Wills indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 5/22/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060707

DATE : July 7, 2006

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 7,010,253

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

☐ **Denied** State the reasons for denial below.

Comments:

SPE: David M. Gray **Art Unit** 2852

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAY 3 1 2006

OFFICE OF PETITIONS

Applicant: Griego et al.
Appl. No.: 10/727,626
Filing Date: December 5, 2003
U.S. Patent No.: 7,052,489
Issue Date: May 30, 2006
Title: MEDICAL DEVICE WITH DEFLECTING SHAFT AND RELATED METHODS OF MANUFACTURE AND USE
Attorney Docket No.: 06530.0318
Pub. No.: US 2005/0124912 A1
Pub. Date: June 9, 2005

This is in response to the "Request for Corrected Patent Application Publication under 37 CFR 1.221(b)," which was received on July 12, 2005, for the above-identified application.

The request is DISMISSED as moot.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

Since the application has already issued as U.S. Patent No. 7,052,489 on May 30, 2006, the request is deemed moot.

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

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

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 1/23/08

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/727626 Patent No: 7052489 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

/M.K./

06/22/2009

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: _____

/Linda C.M. Dvorak/ — **SPE**

3739 — **Art Unit**

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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MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO CA 92122

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
Istvan SZELENYI et al. :
Application No. 10/727,655 : DECISION ON PETITION
Filed: December 05, 2003 :
Attorney Docket No. 081117-0126 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 09, 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 May 16, 2007, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 August 17, 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of May 16, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1614 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUNICHI MIMURA
OKI AMERICA INC.
1101 14TH STREET, N.W.
SUITE 555
WASHINGTON DC 20005

COPY MAILED

MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Matsumito
Application No. 10/727,662
Filed: December 5, 2003
Attorney Docket No. F00ED0150-DIV
For: SEALING APPARATUS FOR SEMICONDUCTOR WAFER, MOLD OF SEALING APPARATUS, AND SEMICONDUCTOR WAFER

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed February 4, 2004, requesting that Figures 3 and 4 be accorded a filing date of December 5, 2003.

The application was filed on December 5, 2003. On January 26, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) informing petitioner that Figures 3 and 4, as described in the specification, appeared to have been omitted.

Petitioner requests that Figures 3 and 4 be accorded a filing date of December 5, 2003 on the basis that 14 sheets of drawing figures, including Figures 3 and 4, were received in the Patent and Trademark Office (PTO) on December 5, 2003. In support, the instant petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 5, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 14 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 14 sheets of drawing figures were filed on December 5, 2003. MPEP 503. A review of the application file reveals that there are 13 sheets of drawing figures present. The missing sheet of drawings corresponds to that which would have contained Figures 3 and 4.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 50-0945.

The application is being returned to Office of Initial Patent Examination for further processing,

with a filing date of **December 5, 2003**, using the copy of Figures 3 and 4 submitted with the instant petition. Office records will be corrected to show that 14 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
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 07-04

Paper No: __

JUDSON K. CHAMPLIN
WESTMAN, CHAMPLIN & KELLY
SUITE 1600
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

COPY MAILED
JUL 1 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Liu, et al.	:	
Application No. 10/727,677	:	DECISION ON PETITION
Filed: 3 December, 2003	:	
Attorney Docket No. R74.12-0001	:	

This is a decision on the petition filed 12 April, 2004, and styled "Petition for Corrected Filing Receipt" requesting Application No. 10/727,677 be accorded a filing date of 4 December, 2003, rather than the presently accorded date of 3 December, 2003, and considered under the provisions of 37 C.F.R. §1.53.[1]

The petition is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.53."

[1] Also considered under the provisions of 37 C.F.R. §1.10.

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

BACKGROUND

The application was received by/deposited with the Office on 5 December, 2003, via US Postal Service (USPS) Express Mail Label No. EV241979035US.

A USPS Tracking report indicates only delivery at the Office on 5 December and does not provide a history as to the date/time of acceptance of the package by the USPS from Petitioner.

Petitioner filed the instant petition on 12 April, 2004, and submits, *inter alia*:

- a Declaration in Support of Corrected Filing Receipt, executed by a person identified only as USPS employee Tim Johnson, contends that the "Date In" on the Express Mail Label was erroneously completed by the USPS as "12 03 03," rather than "12 04 03";

- a copy of what is alleged to be the application transmittal form containing the USPS Express Mail Label No. EV241979035US and signed and dated by Petitioner as "12/4/03";

- a copy of what is alleged to be the receipt card for the application containing the USPS Express Mail Label No. EV241979035US and with Petitioner's initials and dated as "12/4/03"–but date-stamped by the Office as "120303."

ANALYSIS

A review of the application papers reveals that the application in fact was filed and received in the Office on 5 December, 2003, via US Postal Service (USPS) Express Mail Label No. EV241979035US. The copy of the receipt card for the application, submitted on filing in accordance with MPEP §503 and presented by the Petitioner, contains USPS Express Mail Label No. EV241979035US, Petitioner's typed initials and a typed of "12/4/03." However, the Office date stamp on the card is "120303"–i.e., 3 December, 2003.

The declaration in the name of Tim Johnson presented by Petitioner states only that Mr. Johnson is employed by the USPS but gives no detail as to his capacity with USPS, his experience, or how and why he would have first-hand knowledge to make the declaration.

Considered under the provisions of 37 C.F.R. §1.10,[2] documents supporting Petitioner's contention might include the paper tape receipt from the USPS computer/register or a USPS account statement–possibly even a credit card statement–which might contain the Express Mail label number scanned with an infrared sensor and the USPS bar code into the USPS system at the time of acceptance and correlated to that of the instant application.

CONCLUSION

As of this writing there is insufficient support for Petitioner's contention and the petition under 37 C.F.R. §1.53 is **dismissed**.

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

By mail: (Effective 1 May, 2003)[3]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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[2] The regulations at 37 C.F.R. §1.10 provide:

§ 1.10 Filing of papers and fees by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

* * *

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

* * *

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

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

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW 08-04

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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OFFICE OF PETITIONS

In re Application of	:
Barton et al.	: DECISION GRANTING
Application No. 10/727,681	: PETITION
Filed: 4 December, 2003	:
Attorney Docket No. 6794A-000061/US/COG	:

This is a decision on the petition filed on 16 July, 2004, which is treated as a petition requesting that the above-identified application be accorded a filing date of 4 December, 2003, with 91 sheets of drawings as a part of the original disclosure.

The petition is **granted to the extent indicated.**

The application was filed on 4 December, 2003, without drawings.[1] Accordingly, on 18 May, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 16 July, 2004, petitioners filed the present petition along with 91 sheets of drawings, starting with sheet 2 of 92.

Petitioners concede that the drawings were inadvertently omitted when the present application was filed, but state that the application as filed was a continuation of application No. 09/732,208, and requested that the drawings from the parent application be transferred to the present application.

Petitioners are advised that there is no provision in the rules or MPEP for the Office to transfer a copy of papers from one application to another. However, petitioners may file the drawings in the present application as a preliminary amendment. No petition under 37 CFR 1.182 is necessary for that purpose. Amendments to the specification may be entered by the primary

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

examiner without petition so long as the amendment contains no new matter.[2]

Petitioners' assertion that the drawings, which were omitted on filing and a part of a copending application mentioned on the application transmittal sheet are a part of the original disclosure, is not persuasive. Whether the drawings which petitioners intended to file with this application were a part of a copending application is not an issue here since the copending application was not specifically incorporated by reference into the disclosure of this application.[3] The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[4] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. The drawings which petitioners seek entry of were simply not filed in the USPTO on 4 December, 2003.

In addition to a properly itemized postcard, petitioner may avoid in the future the predicament which has occurred 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 petitioner to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition.[5]

Nevertheless, 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

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[2] 37 CFR 1.121(b).

[3] See MPEP 608.01(p).

[4] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

[5] MPEP 201.06(c).

sentence).[6] A review of the record reveals that Claim 29 is a method claim. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. Since the petition was necessitated by an error on the part of the USPTO, the petition fee submitted on 16 July, 2004, will be credited to counsel's deposit account, No. 08-0750.

The "Notice of Incomplete Nonprovisional Application" mailed on 18 May, 2004, is hereby vacated to the extent that it states that the application has not been accorded a filing date.

The application will be processed and examined using only the application papers filed on 16 July, 2004. The 91 sheets of drawings filed with the present petition will not be used for processing or examination, but will be retained in the application file.

Receipt of the associate power of attorney and change of address filed on 16 July, 2004, is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 4 December, 2003, using only the application papers present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[6] MPEP 601.01(f).

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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

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DEC 06 2004

OFFICE OF PETITIONS

In re Application of :
Eric Riffle :
Application No. 10/727,689 : ON PETITION
Filed: December 4, 2003 :
Atty Docket No. 2400-781 :

This is a decision on the petition, filed November 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 25, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3751 for further processing of the request for continued examination under 37 CFR 1.114 filed November 30, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Eric Riffle :
Application No. 10/727,689 : ON PETITION
Filed: December 4, 2003 :
Attorney Docket No. 2400-781 :

This is a decision on the petition, filed March 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 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3751 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Cho, et al. : ON PETITION
Application No. 10/727,702 :
Filed: December 4, 2003 :
Attorney Docket No. 6711.US.C1 :

This is a decision on the petition under 37 CFR 1.181, filed March 9, 2005, requesting withdrawal of the holding of abandonment.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely submit the issue fee and publication fee in reply to the September 27, 2004 Notice of Allowance and Fee(s) Due, which set a three month period for reply. Accordingly, the above-identified application became abandoned on December 28, 2004. A Notice of Abandonment was mailed on February 11, 2005.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the 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]

A review of the record indicates no irregularity in the mailing of the September 27, 2004 Notice of Allowance and Fee(s) Due, and in the absence of any irregularity there is a strong presumption

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[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner is not practicing at the correspondence address of record. Practitioner's address and the address listed at the bottom of the petition is:

HOSPIRA, INC.
275 NORTH FIELD DRIVE
DEPT. NLEG, BLDG., H-1
LAKE FOREST, IL 60045-257

The September 27, 2004 Notice was properly mailed to the Abbott Laboratories address. The fact that practitioner did not receive the September 27, 2004 Notice at the Hospira, Inc., address does not establish non-receipt.

A statement from the practitioners at the Abbott Laboratories address is required. Only they can provide a proper showing of non-receipt.

Since petitioners allege non-receipt of the September 27, 2004 Notice, a copy is enclosed. It is assumed the September 27, 2004 Notice of Allowability was not received, either. A copy of it is enclosed, as well.

Petitioners are encourage to file either a petition to revive under 37 CFR 1.137(a) – the unavoidable standard – or a petition under 37 CFR 1.137(b) – the unintentional standard. The copy of the two September 27, 2004 Notices will allow petitioners respond properly by paying all required fees and returning a completed Part B - Fee(s) Transmittal. Doing so will avoid further delays in the issuance of any future patent.

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.

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosures: copy of Notice of Allowance and Fee(s) Due - September 27, 2004
copy of Notice of Allowability - September 27, 2004

cc: HOSPIRA, INC.
275 NORTH FIELD DRIVE
DEPT. NLEG, BLDG., H-1
LAKE FOREST, IL 60045-257

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

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OFFICE OF PETITIONS

In re Application of
Cho, et al.
Application No. 10/727,702
Filed: December 4, 2003
Attorney Docket No. 6711.US.C1

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.181, filed October 27, 2005, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely submit the issue fee and publication fee in reply to the September 27, 2004 Notice of Allowance and Fee(s) Due, which set a three month period for reply. Accordingly, the above-identified application became abandoned on December 28, 2004. A Notice of Abandonment was mailed on February 11, 2005.

With the instant filing, petitioners have provided adequate evidence to show that the delay in submitting the issue fee and publication fee was due to non-receipt. Practitioner has provided a copy of the electronic docketing records where the September 27, 2004 Notice of Allowance and Fee(s) Due would have been entered had it been received. Practitioner has referenced the electronic docketing record in a practitioner's statement. Practitioner states that a search of the file jacket and docket records was conducted and attests to the fact that the September 27, 2004 Notice of Allowance and Fee(s) Due was not received by practitioner. Therefore, the petition is granted.

Since petitioners have paid all required fees relating to issuance and provided a completed Part B - Fee(s) Transmittal, it is unnecessary to re-mail the September 27, 2004 Notice.

After the mailing of this decision, the application file will be forwarded to Publications Division for processing into a patent.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : JULY 25, 2005

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10727703 Patent No.: 6906879B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

ANDREA WELLINGTON
SUPERVISORY PATENT EXAMINER
SPE

2627
Art Unit

BEST AVAILABLE COPY

SPE Son Mai

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/727,742

Paper No.: _____

DATE : 5/20/05

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6873539

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Lamonte Newsome

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:

To improve grammar in claims 1 and 2. JM

SPE

2827
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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NEIL STEINBERG
STEINBERG & WHITT, LLP
SUITE 1150
2665 MARINE WAY
MOUNTAIN VIEW CA 94043

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SEP 28 2006

OFFICE OF PETITIONS

In re Patent No. 6,873,539 :
Issued: March 29, 2005 :
Application No. 10/727,742 : LETTER
Filed: December 4, 2003 :
Attorney Docket No. 211.001-D4-US:

This is in response to the paper filed January 3, 2006 under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the January 3, 2006 request, status as a Small Entity has been removed and all future fees must be paid at the large entity rate.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 6,873,539 :
Issued: March 29, 2005 :
Application No. 10/727,742 : LETTER
Filed: December 4, 2003 :
Attorney Docket No. 211.001-D4-US:

This is in response to the paper filed January 3, 2006 under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the January 3, 2006 request, status as a Small Entity has been removed and all future fees must be paid at the large entity rate.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

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Office of Petitions

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JAMES J. HILL
EMRICH & DITHMAR, LLC
125 SOUTH WACKER DRIVE, SUITE 2080
CHICAGO IL 60606-4401

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of Harry C. Deckler et al Application No. 10/727,747 Filed: December 4, 2003 Attorney Docket No. KINZE 34	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 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 the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of March 7, 2006, 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 $2,160 extension of time submitted with the petition on October 23, 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) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

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PETITION DECISION

06/18/04

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 10/727792 received on 05/26/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :

SPIREAS, Spiridon :
Application No. 10/727,805 : DECISION ON PETITION
Filed: December 4, 2003 : TO WITHDRAW
Attorney Docket No. **MPCI-0135** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 19, 2007.

The request is **NOT APPROVED.**

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BRENDAN MAGRAB ESQ.**
VICE PRESIDENT AND GENERAL COUNSEL
MUTUAL PHARMACEUTICAL COMPANY, INC.
1100 ORTHODOX STREET
PHILADELPHIA, PA 19124

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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MAR 04 2008

OFFICE OF PETITIONS

In re Application of :
SPIREAS, Spiridon :
Application No. 10/727,805 :
Filed: December 4, 2003 :
Attorney Docket No. **MPCI-0135** :

DECISION ON PETITION
TO WITHDRAW
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 September 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 John W. Caldwell on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed September 6, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SPIRIDON SPIREAS**
15 EAGLERON FARMS ROAD
NEWTON, PA 18940

cc: **BRENDAN MAGRAB, ESQ.**
MUTUAL PHARMACEUTICAL COMPANY, INC.
1100 ORTHODOX STREET
PHILADELPHIA, PA 19124

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Ulrich Bonne, et al.	:	
Application No. 10/727,834	:	ON PETITION
Filed: December 4, 2003	:	
Attorney Docket No. H0004834(1100.1205101)	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal or within one (1) month of the Notice of Panel Decision, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). A Notice of Abandonment was mailed on June 26, 2008. In response, on October 10, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) , including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOHN G. SHUDY, JR.
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MN 55403-2420

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MURAMATSU & ASSOCIATES
114 PACIFICA, SUITE 310
IRVINE CA 92618

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Fumio Mieda et al	:	
Application No. 10/727,842	:	DECISION GRANTING PETITION
Filed: December 4, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. KORG.003AUS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 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 the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of October 18, 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 Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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William R. Coenen, III
Kean, Miller, Hawthorne, D'Armond,
McCowan & Jarman, L.L.P.
P.O. Box 3513
Baton Rouge, LA 70821

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OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of :
M. Wang, J. Wang, Luo, and Cheng :
Application No.: 10/727,857 : DECISION ACCORDING
Filed: December 4, 2003 : RULE 47(a) STATUS
Attorney Docket No: 17557-0 :
For: CONTROL MECHANISM FOR ENHANCED FEATURES
FOR STREAMING VIEDO ON DEMAND SYSTEMS

This is in response to the petition under 37 CFR 1.47(a), filed August 30, 2004, certificate of mailing dated August 24, 2004.

The petition is **GRANTED**.

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

The above-cited application was filed on December 4, 2003, without a properly executed declaration. On February 27, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a declaration signed by all named inventors and a surcharge of $130.00 for the late filing of the declaration. On August 30, 2004, the instant petition was filed along with a request for an extension of time within the fourth month.

Petitioner has shown that inventors Meng Wang and Jian Wang were not able to be located after a diligent effort by the representatives of the 37 CFR 1.47 applicant. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/727,865	12/04/2003	2184	770	RPS920030185US1	7	20	3

CONFIRMATION NO. 7888

CORRECTED FILING RECEIPT

OC000000012318593

25299
IBM CORPORATION
PO BOX 12195
DEPT 9CCA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

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)

Daryl Carvis Cromer, Apex, NC;
Howard Jeffrey Locker, Cary, NC;
Randall Scott Springfield, Chapel Hill, NC;

Assignment For Published Patent Application

International Business Machines Corp., Armonk, NY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/05/2004

Projected Publication Date: 06/09/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for performing remote maintenance operations on a battery powered

computer

Preliminary Class

714

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

GRANTED

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

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

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

NOT GRANTED

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

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

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MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
SINHA et al	:	
Application No.: 10/727,872	:	DECISION ON PETITION
Filing Date: December 3, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 018236-000720US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 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 August 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 November 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.

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.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Woltman et al.	:	
Application No. 10/727,892	:	DECISION REFUSING STATUS
Filed: December 4, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. KCX-703(19021)	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 16, 2004.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Applicants filed the above-identified application on December 4, 2003, without an executed oath or declaration. On April 16, 2004, applicants filed the present petition, a declaration signed by two of the three joint inventors and paid the necessary fees.

In the Statement of Facts, Steven R. LeBlanc states that Kimberly-Clark personnel have had several unsuccessful conversations with the nonsigning inventor, Barbara O. Sauer, in an attempt to obtain her signature on the declaration and assignment. Furthermore, Mr. LeBlanc states that Ms. Sauer was mailed a copy of the application and corresponding papers to her present address; however, she refused delivery of the package.

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), the declaration does not identify Ms. Sauer's mailing address or residence. The Office notes that the declaration must identify "[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). Applicant must submit a declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity and the correct mailing address and residence of Ms. Sauer and is signed by the signing inventors on behalf of the nonsigning inventor, Ms. Sauer.

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 (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Woltman et al. :
Application No. 10/727,892 : DECISION GRANTING STATUS
Filed: December 4, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. KCX-703(19021) :

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 22, 2004.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Steven R. LeBlanc states that Kimberly-Clark personnel have had several unsuccessful conversations with the nonsigning inventor, Barbara O. Sauer, in an attempt to obtain her signature on the declaration and assignment. Furthermore, Mr. LeBlanc states that Ms. Sauer was mailed a copy of the application and corresponding papers to her present address; however, she refused delivery of the package. Accordingly, Mr. LeBlanc established that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

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

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

The application file is being forwarded to Technology Center Art Unit 3761 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

ROGER M. RATHBUN
13 MARGARITA COURT
HILTON HEAD ISLAND SC 29926

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of
Michael H. Mackin
Application No. 10/727,896
Filed: December 4, 2003
Attorney Docket Number: OM131
Title: CANOPY ADJUSTABLE MOUNTING SYSTEM FOR INFANT WARMING APPARATUS

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

This is a decision on the petition filed December 7, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. §1.113 in a timely manner to the final Office action mailed June 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on September 2, 2005.

---

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

With this petition, Petitioner has submitted the petition fee and the required statement of unintentional delay. A terminal disclaimer is not required.

Petitioner has further submitted an amendment, which has been reviewed by the Examiner, and it has been deemed to constitute the required reply.

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

The Technology Center will be notified of this decision, so that the amendment of December 6, 2005 can be further processed.

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

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

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United States Patent and Trademark Office
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c/o Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Craig L. Adams	: DECISION ON REQUEST FOR
Patent Number	: 7625367	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/727,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1544** 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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Daniel P. McCarthy, Esq.
Parsons Behle & Latimer
Suite 1800
201 South Main Street
Salt Lake, City UT 84111

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of
Pope et al.
Application No. 10/727,908
Filed: November 30, 2004
Attorney Docket No. 6061.1 P

Decision on Petition

This is a decision on the petition filed November 30, 2004, to accord the above-identified application a filing date of November 23, 2004, the date the papers were mailed to the Office. An additional copy of the petition was filed on March 30, 2005.

The petition is **granted** to the extent indicated below. The application will be accorded a filing date of November 30, 2004.

The application was filed on December 4, 2003.

On September 28, 2004, the Office of Initial Patent Examination mailed a Notice stating that Figures 2B, 2C, 2D, and 2J were missing and that a filing date had been accorded and that, unless a petition was filed, the application would be examined as filed.

In response, the present petition supplies the omitted items and requests that the date that the omitted items are being supplied be the filing date of the application.

The missing Figures and the petition were mailed in compliance with 37 CFR 1.8. The papers were received on November 30, 2004. The benefits of 37 CFR 1.8 do not apply to papers which are part of the original application. The missing figures are being accepted and entered as part of the original application. Therefore, the filing date will be the date of receipt of the papers rather than the date the papers were mailed.

A copy of the November 30, 2004 papers was resubmitted on March 30, 2005. In response to the March papers, the Office charged $130 to petitioner's deposit account for the petition fee and $795 for an extension of time fee. These fees totaling $925 are refundable and will be credited back to petitioner's deposit account.

As of November 1, 2004, the fee for a petition under 37 CFR 1.182 increased to $400. The Office only charged $130 to petitioner's deposit account. Therefore, an additional $270 will be charged to petitioner's deposit account.

The papers filed March 30, 2005, will not be entered since they are merely duplicates of papers filed November 1, 2004.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 30, 2004, using the application papers filed on December 4, 2003, and the copy of the papers including Figures 2B, 2C, 2D, and 2J filed on November 30, 2004.

Telephone inquiries 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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9085 EAST MINERAL CIRCLE
SUITE 200
CENTENNIAL CO 80112

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Pierce, et al.
Application No. 10/727,913
Deposited: December 4, 2003
Attorney Docket No. 1434-005

DECISION GRANTING PETITION

This is a decision on the petition, filed August 19, 2004 and resubmitted on May 23, 2005 to accord a filing date of December 4, 2003 to the above-identified application.

The petition is **GRANTED**.

The application was deposited on December 4, 2003. However, on August 11, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on December 4, 2003 did not describe drawing figures.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence.)

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, <u>not</u> describing drawing figures in the specification, and filed without drawings will simply be processed for examination....

This application contains method claims. Therefore, the application should have been accorded a filing date and processed for examination.

In view of the above, the "Notice" mailed August 11, 2004 was mailed in error and is hereby withdrawn.

The application is entitled to a filing date of December 4, 2003.No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2003 and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center G.A.U. 1661 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DEC 28 2006

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Lawrence K. Pierce	:
Serial No.: 10/727,913	: PETITION DECISION
Filed: December 4, 2003	:
Attorney Docket No.: 1434-005	

This is in response to the petition under 37 CFR § 1.59(b), filed December 14, 2006, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on December 5, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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

George C. Elliott

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 11 200

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Lawrence K. Pierce	:
Serial No.: 10/727,913	: PETITION DECISION
Filed: December 4, 2003	:
Attorney Docket No.: 1434-005	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed December 4, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on December 5, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of Pierce Application No. 10/727,914 Filed: December 4, 2003 Attorney Docket No. 1434-004 For: CELERY NAMED ADS-3	DECISION GRANTING PETITION

This is a decision on the petition entitled, " RESPONSE TO NOTICE OF INCOMPLETE APPLICATION"," filed May 17, 2004, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed May 3, 2004, and accordation of a December 4, 2003 filing date to the above-identified application.

The application was deposited on December 4, 2003. On May 3, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on December 4, 2003 because no drawing was present, as is required by 35 USC 113.

In response to the Notice, petitioner timely filed the present petition in which petitioner argues that drawings are not necessary for the understanding of the invention.

It is noted that the above-identified application contains multiple method claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> ... [A] nonprovisional application having at least one claim ... directed to a subject matter ... for which a drawing is usually not considered essential for a filing date, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination, so long as the application contains something that can be construed as a written description.

This nonprovisional application contains method claims and a detailed written description. Therefore, the application should have been accorded a filing date.

In view of the above, the "Notice" mailed May 3, 2004 was mailed in error and is hereby withdrawn. The petition is **granted**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **December 4, 2003**.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712. After September 30, 2004, please call (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DEC 28 2006

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Lawrence K. Pierce	:
Serial No.: 10/727,914	: PETITION DECISION
Filed: December 4, 2003	:
Attorney Docket No.: 1434-004	

This is in response to the petition under 37 CFR § 1.59(b), filed December 14, 2006, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on December 5, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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

George C. Elliott

George Elliott
Director, Technology Center 1600

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OCT 19 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Lawrence K. Pierce	:
Serial No.: 10/727,914	: PETITION DECISION
Filed: March 23, 2006	:
Attorney Docket No.: 1760-345	:

This is in response to the petition under 37 CFR § 1.59(b), filed October 2, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on December 5, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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INTEL CORPORATION
P.O. BOX 5326
SANTA CLARA, CA 95056-5326

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Satyendra Yadav	:	
Application No. 10/727,943	:	DECISION GRANTING PETITION
Filed: December 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 42P16736	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 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 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 of February 27, 2007, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DAVID GUGLIELMI
2111 NE 25TH AVENUE
HILLSBORO, OR 97124

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OFFICE OF PETITIONS

In re Application of	:	
Moller et al.	:	
Application Number: 10/727963	:	ON PETITION
Filing Date: 12/03/2003	:	
Attorney Docket Number: BW1-0012US	:	

This is a decision on the petition under 37 CFR 1.182, filed on April 21, 2008, to correct the declaration under 37 CFR 1.63 filed in the above-identified application. The petition is also treated as a petition to correct the inventors' names to reflect the names as listed on the declaration filed with the subject petition.

The petition is **GRANTED**.

Petitioner asserts that the declaration filed with the original application papers on December 3, 2003, inadvertently listed one of the joint inventors, Remembrance Louise Newcombe, twice: she was listed as the sixth named inventor as "Remy Newcombe" and again as the seventh named inventor as "Remembrance Newcombe."

A new declaration correcting the error, and listing the full names of the inventors, was filed on April 21, 2008.

The Office inventorship records have been corrected. The names of the inventors have been corrected to reflect the typewritten names on the declaration filed on April 21, 2008.

A corrected Filing Receipt is attached.

As the error was that of petitioner, rather than the Office, the petition fee has been charged.

The application will be referred to the Office of Data Management for processing into a patent.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/727,963	12/03/2003	1797	1137	BW1-0012US	32	11

CONFIRMATION NO. 7416

CORRECTED FILING RECEIPT

OC000000030410219

75544
Rainier Patents PS
505 W. Riverside Ave
Suite 500
Spokane, WA 99201

Date Mailed: 06/11/2008

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)

Gregory Moller, Moscow, ID;
Kevin Marshall Brackney, Moscow, ID;
Roger Alan Korus, Moscow, ID;
Gerald Michael Keller JR., Omaha, NE;
Brian Keith Hart, Moscow, ID;
Remembrance Louisa Newcombe, Coeur d'Alene, ID;

Power of Attorney: The patent practitioners associated with Customer Number 75544

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/430,756 12/04/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/727,963**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

REACTIVE FILTRATION

Preliminary Class

210

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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OFFICE OF PETITIONS

In re Application of
Tricia J. Vos et al
Application No. 10/727,997
Filed: December 4, 2003
Attorney Docket No. 29984-208422

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 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]

It is noted that petitioner requests the Office to withdraw this application from issue under the provisions of 37 CFR 1.313(b)(1) "because a mistake was made on the part of the USPTO."

37 CFR 1.313(b) states:

Once the issue fee has been paid, the Office will not withdraw the application from issue at its own initiative for any reason except:

---

[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.*

(1) A mistake on the part of the Office;
(2) A violation of § 1.56 or illegality in the application;
(3) Unpatentability of one or more claims; or
(4) For interference.

37 CFR 1.313(c) states:

> 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 request for continued examination pursuant to § 1.114; or
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

37 CFR 1.313(d) states:

> (d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. **Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information** (emphasis added).

37 CFR 1.313(b) applies to those situations where the Office, **at its own initiative**, may withdraw an application from issue, but only in those situations which meet the conditions of 37 CFR 1.313(b). See Sampson v. Dann, 466 F.Supp. 965, 973-74, 201 USPQ 15, 22 (D.D.C. 1978). Therefore, 37 CFR 1.313(b) is inapplicable here since the rule does not provide for withdrawal from issue at the request of an applicant.

Additionally, petitioner should note that, where applicant seeks to correct an error or submit an amendment after allowance of the application, such

amendment must be submitted in accordance with 37 CFR 1.312. As set forth in 37 CFR 1.312, no amendment may be made as a matter of right in an application after the mailing of the notice of allowance.

The proper avenue of relief for withdrawing an application from issue after payment of the issue fee is by way of a petition under 37 CFR 1.313(c)(1)-(3). Therefore, this application can only be withdrawn from issue at the request of the applicant under one of the provisions set forth in 37 CFR 1.313(c)(1)-(3). The petition meets the conditions of 37 CFR 1.313(c)(2).

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

This matter is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090323

DATE : September 22, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7365070

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:

/Joseph K McKane/
Supervisory Patent Examiner, Art Unit 1626

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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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633 WEST FIFTH STREET
LOS ANGELES, CA 90071

COPY MAILED

JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Brown, et al.
Application No. 10/727,998
Filed: June 3, 2005
Attorney Docket No. D9359B

ON PETITION

This is a decision on the papers styled, "Petition Under 37 CFR 1.181 to Give Applicant U.S. Patent Application Filing Date of December 3, 2003 for U.S. Patent Application No. 10/727,998 Entitled 'Apparatus and Methods for Washing the Cored Areas of Lettuce Heads,'" filed June 3, 2005, which has been treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of December 3, 2003, including the specification.

The application was submitted on December 3, 2003. However, on May 12, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," (Notice) that stated the application had not been accorded a filing date, and that, among other items, the specification appears to have been omitted.

In response, on June 3, 2005, a copy of the specification and the instant petition were submitted.

Petitioner states, "Attached as Exhibit C, is a copy of Applicant's Transmittal Form for the captioned U.S. Patent Application at issue. At page 2 of this transmittal form, Applicant checked box 5, to incorporate by reference, the entire specifications, drawings, claims, and oath of the prior co-pending patent applications listed at page 1 of the transmittal form."

Petitioner appears to request the use of the incorporation by reference statement in Box 5 of the Utility Patent Application Transmittal to incorporate-by-reference the specifications of prior application nos. 09/692,273 and 09/295,438, in order to accord the above-identified application a filing date of December 3, 2003. However, please note MPEP 201.06(c):

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will **not** be entitled to a filing date.

> A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered." (Emphasis added).

It is noted that the required amendment has not been submitted with the instant petition. At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(703) 872-9306 Attn: Office of Petitions
By hand	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

The application shall retain the June 3, 2005 filing date, the date of submission of the specification.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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LOS ANGELES, CA 90071

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 10/727,998	:	ON PETITION
Filed: June 3, 2005	:	
Attorney Docket No. D9359B	:	

This is a decision on the papers filed July 20, 2005, which have been treated as a request for reconsideration of a petition requesting that the above-identified application be accorded a filing date of December 3, 2003, including the specification.

The application was submitted on December 3, 2003. However, on May 12, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," (Notice) that stated the application had not been accorded a filing date, and that, among other items, the specification appears to have been omitted.

In response, on June 3, 2005, a copy of the specification and the original petition were submitted.

Petitioner stated in the original petition, "Attached as Exhibit C, is a copy of Applicant's Transmittal Form for the captioned U.S. Patent Application at issue. At page 2 of this transmittal form, Applicant checked box 5, to incorporate by reference, the entire specifications, drawings, claims, and oath of the prior co-pending patent applications listed at page 1 of the transmittal form."

Petitioner appears to request the use of the incorporation by reference statement in Box 5 of the Utility Patent Application Transmittal to incorporate-by-reference the specifications of prior application nos. 09/692,273 and 09/295,438, in order to accord the above-identified application a filing date of December 3, 2003. However, please note MPEP 201.06(c):

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will **not** be entitled to a filing date. <u>A petition under 37 CFR 1.182 and the required petition fee, including an amendment</u>

> submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered." (Emphasis added).

It is noted that the required amendment that specifically requests that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement still has not been submitted. As such, at the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(703) 872-9306 Attn: Office of Petitions
By hand	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

The application shall retain the June 3, 2005 filing date, the date of submission of the specification.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 10/727,998	:	ON PETITION
Filed: December 3, 2003	:	
Attorney Docket No. D9359B	:	

This is a decision on the papers filed October 4, 2005, which have been treated as a petition under 37 CFR 1.182 and a request for reconsideration of a petition requesting that the above-identified application be accorded a filing date of December 3, 2003, including the specification. The petition was recently forwarded to this office for review.

The application was submitted on December 3, 2003. However, on May 12, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," (Notice) that stated the application had not been accorded a filing date, and that, among other items, the specification appears to have been omitted.

In response, on June 3, 2005, a copy of the specification and the original petition were submitted.

Petitioner stated in the original petition, "Attached as Exhibit C, is a copy of Applicant's Transmittal Form for the captioned U.S. Patent Application at issue. At page 2 of this transmittal form, Applicant checked box 5, to incorporate by reference, the entire specifications, drawings, claims, and oath of the prior co-pending patent applications listed at page 1 of the transmittal form."

Petitioner appears to request the use of the incorporation by reference statement in Box 5 of the Utility Patent Application Transmittal to incorporate-by-reference the specification of prior application no. 09/692,273, in order to accord the above-identified application a filing date of December 3, 2003.

On the filing of the original petition, MPEP 201.06(c) stated:

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed

> incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will **not** be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered."

Petitioner has submitted the required petition, petition fee, and an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement.

The petition is granted.

Based on petitioners' representation that the specification supplied on June 3, 2005 is a part of the disclosure of prior application no. 09/692,273 and that the entire disclosure of prior application no. 09/692,273 was specifically incorporated by reference in the present application on December 3, 2003, it appears that the specification was present in the Office on December 3, 2003, albeit in the file of another application, i.e., application no. 09/692,273. Therefore, on petition, the application may be granted the requested filing date of December 3, 2003.

Of course, the primary examiner is expected to compare the specification supplied on June 3, 2005, to the disclosure of prior application no. 09/692,273 in order to verify that the specification is, in fact, part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 3, 2003, using the specification supplied on June 3, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

3621

United States
Patent And
Trademark Office

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

PETITION DECISION

04/09/04

Renner, Kenner, Greive, Bobak, Taylor & Weber
Rodney L. Skoglung
First National Tower, 4th Floor
Akron, Ohio 44308

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/728018 received on 02/19/04 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/728,019	12/03/2003	1642	780	CPI-042CN2	22	40	8

CONFIRMATION NO. 8027

CORRECTED FILING RECEIPT

OC000000013742506

00959
LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

Date Mailed: 09/08/2004

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 L. Johnson, Boulder, CO;

Power of Attorney: The patent practitioners associated with Customer Number **00959**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/858,754 05/16/2001
which is a CON of 09/023,130 02/13/1998 ABN
which claims benefit of 60/039,740 02/14/1997

Foreign Applications

If Required, Foreign Filing License Granted: 03/15/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/728,019

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and product for regulating apoptosis

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.

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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215 SOUTH STATE STREET
SUITE 550, PARKSIDE TOWER
SALT LAKE CITY, UT 84111

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Phillip M. Adams	:	
Application No. 10/728,061	:	DECISION ON PETITION
Filed: December 4, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2456.6.3	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 09/969,176, filed October 1, 2001, as set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

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

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

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

This application is being forwarded to Technology Center Art Unit 2134 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.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/728,061	12/04/2003	2134	493	2456.2.6.3	32	2

CONFIRMATION NO. 7662

CORRECTED FILING RECEIPT

OC000000024872429

28049
PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 07/18/2007

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

Applicant(s)

Phillip M. Adams, Henderson, NV;

Power of Attorney:

A Pate--36234
Gary Pierce--38019
David Fonda--39672
Hal Baird--42284
Gordon Hill--48664
Daniel Nelson--52063

Domestic Priority data as claimed by applicant

This application is a CON of 10/335,132 12/31/2002 ABN
which is a CIP of 09/969,176 10/01/2001 PAT 7,251,752

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/728,061

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Counter-invasive software system and method

Preliminary Class

713

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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SUITE 1400
ARLINGTON, VA 22201

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SEP 01 2009

OFFICE OF PETITIONS

In re Application of	:	ON PETITIONS
Bosslet et al.	:	UNDER 37 CFR 1.183
Application No.: 10/728,098	:	AND REQUEST FOR
Filed: December 5, 2003	:	RECONSIDERATION
Atty. Docket No. DORRIE-0007	:	OF PATENT TERM ADJUSTMENT

This is in response to the "PETITION UNDER 37 CFR § 1.183 REQUESTING DELAYED ACCEPTANCE OF THE APPLICATION TO AJUST FOR PATENT TERM UNDER 37 C.F.R. § 1.705(b)and the "APPLICATION FOR PATENT TERM ADJUSTMENT" both filed March 17, 2009. Applicants petition under § 1.183 for suspension of the requirement under § 1.705(b) that any request for reconsideration of the patent term adjustment indicated in the notice of allowance be filed no later than the payment of the issue fee. Further, applicants request that the patent term in this application be adjusted from one hundred seventy-nine (179) days to five hundred fourteen (514) days.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(b) is **dismissed as untimely filed**.

RELEVANT STATUTES AND RULES

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(b)(3)(B), provides that:

Under the procedures established under subparagraph (A), the Director shall-

(i) make a determination of the period of any patent term adjustment under this subsection, and shall transmit a notice of that determination with the written notice of allowance of the application under section 151; and

(ii) provide the applicant one opportunity to request reconsideration of any paten term adjustment determination made by the Director.

37 C.F.R. 1.705 provides, in pertinent part, that:

(a) The notice of allowance will include notification of any patent term adjustment under 35 U.S.C. 154(b).

(b) Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application of patent term adjustment. An application for patent term adjustment must be filed no later than the payment of the issue fee but may not be filed earlier than the date of the mailing of the notice of allowance.

OPINION

Pursuuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing an application for patent term adjustment prior to the payment of the issue fee.

On December 17, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) that indicated

that the patent term adjustment to date is 179 days. The issue fee payment was received in the Office on March 13, 2009. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of the mailing of the notice of allowance ended upon payment of the issue fee on March 13, 2009.

On March 17, 2009, applicants filed the instant petition stating that:

> It is counsel's normal practice to pay issue fees the day before the due date. In this application, however, the applicants had inquired about the possibility for reconsideration of PTA and undersigned's staff, unaware of the possibility that Applicants might decide to file an Application for Patent Term Adjustment, inadvertently paid the issue fee one day early on 16 March 2009.

Excerpt from *Petition under 37 CFR § 1.183 Requesting Delayed Acceptance of the Application to Adjust for Patent Term Under 37 CFR § 1.705(b)*, filed March 17, 2009, p. 1.

Having considered applicants' argument, it is concluded that, in this instance, waiver of the requirement that the application for patent term adjustment be filed prior to the payment of the issue fee is not appropriate. It appears that there was an apparent lack of communication between counsel and counsel's staff and that counsel's staff failed to adhere to counsel's alleged stated practice of paying issue fees the day before the due date for the issue fee. Neither of these errors, while inadvertent, amounts to an 'extraordinary' situation as is meant by 37 CFR 1.183 such that justice requires waiver of the requirements of 37 CFR 1.705(b).

As there is no dispute that this application for PTA was filed after payment of the issue fee and it has been concluded that waiver of the requirement is not warranted, it is appropriate to dismiss this application for patent term adjustment as untimely filed.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(b) is **dismissed**.

The fee for a petition under 37 CFR 1.183 is $400.00. As the amount of $130.00 was received on March 17, 2009, towards the satisfaction of the petition fee, deposit account 13-3402 will be charged an additional $270.00 for the outstanding amount.

Accordingly, consideration now turns to the Application for Patent Term Adjustment.

ON APPLICATION FOR PATENT TERM ADJUTSMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUTSMENT," filed March 17, 2009. Therein, applicants request correction of the patent term adjustment (PTA) indicated in the patent to five hundred fourteen (514) days.

37 CFR 1.705(b) provides the sole avenue before the Office for requesting reconsideration of the Office's initial determination of patent term adjustment. Moreover, § 1.705(b) states, in pertinent part, that "[a]n application for patent term adjustment…must be filed no later than the payment of the issue fee but may not be filed earlier than the date of the mailing of the notice of allowance". Since the request was not filed before, or on the same day as the issue fee was paid, 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(b) filed after payment of the issue fee is dismissed as untimely filed.

Receipt of the fee for the application for patent term adjustment is acknowledged.

The application file 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[1]).

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR ' 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

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SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Klaus Bosslet	: DECISION ON REQUEST FOR
Patent Number	: 7605136	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/728,098	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **387** 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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SUITE 1400
ARLINGTON, VA 22201

Mail Date: 05/17/2010

Applicant : Klaus Bosslet
Patent Number : 7605136
Issue Date : 10/20/2009
Application No : 10/728,098
Filed : 12/05/2003

: 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 **477** 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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DEC 1 3 2004

OFFICE OF PETITIONS

In re Application of
Hugues Cremer et al.
Application No. 10/782,105
Filed: December 4, 2003
Attorney Docket No. DP-308260

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 1, 2004.

The petition is **DISMISSED**.

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

The above-identified application was filed on December 4, 2003, naming Hugues Cremer, Michael Sanchez and Manfred as joint inventors, but without a signed declaration.

Accordingly, on March 5, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on June 1, 2004, the present petition was filed with a one month extension of time. Petitioners seek status under 37 CFR 1.47(a) because joint inventor Manfred Schastok is no longer employed by the assignee and that while the application papers were mailed to Mr. Schastok's last known address, the papers were returned undeliverable.

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;

Copied from 10782105 on 01/03/2005

(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1) (2) (3) and (4).
Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners claim that Mr. Schastok no longer lives at the last known address to which the application materials were sent, and subsequently returned as undeliverable. Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Schastok, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Mr. Schastok by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Mr. Schastok cannot be found despite diligent efforts.

If Mr. Schastok refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. See the Notice of Informal Application mailed December 7, 2004 which indicates that the oath or declaration, filed June 1, 2004, fails to indicate the residence and complete mailing or post office address for each of the inventors.

The petition fee pursuant to 37 CFR 1.47 and 37 CFR 1.17 at the time the petition was filed was set at $130.00. The petition fee will be charged to deposit account no. 50-0831.

With respect to item (4), the last known address of inventor Schastok has not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of the last known address of the nonsigning inventors. That address should be the last known address at which the inventors customarily receive mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

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

By mail: Mail Stop Petitions
Commissioner for Patents

[1] MPEP 409.03(d).

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P.O. Box 1450
Alexandria, VA 22313-1450

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Copied from 10782105 on 01/03/2005

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OFFICE OF PETITIONS

In re Application of
Hugues Cremer et al.
Application No. 10/728,105
Filed: December 4, 2003
Attorney Docket No. DP-308260

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

CORRECTED DECISION[1]

This is in response to the petition under 37 CFR 1.47(a), filed June 1, 2004.

The petition is **DISMISSED**.

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

The above-identified application was filed on December 4, 2003, naming Hugues Cremer, Michael Sanchez and Manfred as joint inventors, but without a signed declaration.

Accordingly, on March 5, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on June 1, 2004, the present petition was filed with a one month extension of time. Petitioners seek status under 37 CFR 1.47(a) because joint inventor Manfred Schastok is no longer employed by the assignee and that while the application papers were mailed to Mr. Schastok's last known address, the papers were returned undeliverable.

A grantable petition under 37 CFR 1.47(a) requires:

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[1]Decision mailed December 13, 2004 had an incorrect application number. This decision is re-mailed only for the purposes of correcting the application number.

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1) (2) (3) and (4).
Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[2] Petitioners claim that Mr. Schastok no longer lives at the last known address to which the application materials were sent, and subsequently returned as undeliverable. Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Schastok, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Mr. Schastok by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Mr. Schastok cannot be found despite diligent efforts.

If Mr. Schastok refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. See the Notice of Informal Application mailed December 7, 2004 which indicates that the oath or declaration, filed June 1, 2004, fails to indicate the residence and complete mailing or post office address for each of the inventors.

The petition fee pursuant to 37 CFR 1.47 and 37 CFR 1.17 at the time the petition was filed was set at $130.00. The petition fee will be charged to deposit account no. 50-0831.

With respect to item (4), the last known address of inventor Schastok has not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of the last known address of the nonsigning inventors. That address should be the last known address at which the inventors customarily receive mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

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[2] MPEP 409.03(d).

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

By mail: Mail Stop Petitions
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By FAX: (703) 872-9306
Office of Petitions

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

Patricia Faison-Ball

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Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Hughes Cremer et al.
Application No. 10/728,105
Filed: December 4, 2003
Attorney Docket No. DP-308260

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:**37 CFR 1.47(a) DISMISSED** AS
:INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed June 1, 2004 and was dismissed in a decision mailed December 13, 2004 and corrected on January 3, 2005.

Papers filed on March 7, 2005 (certificate of mail date, March 3, 2005), in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed December 13, 2004 and corrected on January 3, 2005, included a declaration signed by the previously non-signing inventor, Manfred Schastock, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed March 7, 2005 (certificate of mail date, March 3, 2005) is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to Technology Center 3747 and examination of the application will occur in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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& ASSOCIATES
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In re Application of	:	
Kadambe, et al.	:	
Application No. 10/728,106	:	DECISION
Filed: 3 December, 2003	:	
Attorney Docket No. HRL132	:	

This is a decision on the petition, filed 3 March, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, and in the alternative 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 as considered under 37 C.F.R. §1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing as to non-receipt requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

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.).

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to a non-final Office action mailed on 31 July, 2007, with a reply due on or before 31 October, 2007.

The application went abandoned after midnight 31 October, 2007.

It appears that the Office did not mail the Notice of Abandonment before the instant petition was filed.

On 3 March, 2008, Petitioner filed two petitions, one requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181 averring timely filing supported with a copy of the date-stamped ("26 SEP 2007") receipt card and a copy of the amendment averred to have been filed—it is noted and Petitioner is cautioned that the paper filed did not bear a certificate of mailing/transmission under 37 C.F.R. §1.8 or §1.10—and, in the alternative Petitioner filed the petition under 37 C.F.R. §1.137(b), authorized the fee, made the statement of unintentional delay and with the amendment as the required reply and made the statement of unintentional delay.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

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 **>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).

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

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

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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.

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

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.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

Allegations as to Abandonment
Due to Unintentional Delay

As indicated earlier, 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.).

---

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

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

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

The petition now is moot.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, however, it is noted that no Notice of Abandonment was mailed and therefore there is no Notice to be vacated; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The instant application is released to Technology Center/AU 2626 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—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

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

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

[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.

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Nandakumar Govindaswamy

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of	:
Jain-Pandey, et al.	:
Application No. 10/728,114	: DECISION GRANTING PETITION
Deposited: December 4, 2003	:
Attorney Docket No. VPI/02-135 US	:
	:
	:

This is a decision on the petition, filed October 5, 2004 to accord a filing date of December 4, 2003 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on December 4, 2003. However, on March 5, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on December 4, 2003 did not describe drawing figures.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, <u>not</u> describing drawing figures in the specification, and filed without drawings will simply be processed for examination.

This application contains composition claims. Therefore, the application should have been accorded a filing date and processed for examination.

In view of the above, the "Notice" mailed March 5, 2004 was mailed in error with respect to the

filing date issue and is hereby withdrawn to that extent.

The application is entitled to a filing date of December 4, 2003. The petition under 37 CFR 1.53(e) is **GRANTED**.

No petition fee has been or will be charged in connection with this matter. The $2,080 extension of time fee is unnecessary and will be credited to deposit account no. 50-0725.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2003 and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Michael Wayne Brown	: DECISION ON REQUEST FOR
Patent Number	: 7620362	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/728,163	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1552** 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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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Douglas Andrew Levin et al	:	
Application No. 10/728,173	:	ON PETITION
Filed: December 4, 2003	:	
Attorney Docket No. DUC-002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2010, 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 23, 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 24, 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 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3685 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed January 7, 2010 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Kenneth S. Goldman
Black Duck Software, Inc.
265 Winter Street
Waltham, MA 02451

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JUN 08 2010
OFFICE OF PETITIONS

In re Patent No. 7,552,093	:	
Issue Date: June 23, 2009	:	
Application No. 10/728,174	:	NOTICE
Filed: December 4, 2003	:	
Attorney Docket No. DUC-001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 8, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
Mark L.BUER et al.	:	
Application No. 10/728,192	:	DECISION ON PETITION
Filed: December 04, 2003	:	
Attorney Docket No. 2875.0170001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 06, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 08, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 09, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $1620.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of October 08, 2008 has been accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2437 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of :
Dotan, et al. :
Application No. 10/728,227 : ON APPLICATION FOR
Filed: December 3, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 25681-502-P :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed June 30, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred fifteen (815) days, not four hundred twelve (412) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

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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.

(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 January 11, 2008.

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

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

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

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Nir Dotan	: DECISION ON REQUEST FOR
Patent Number	: 7592150	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/728,227	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1218** 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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 7,592,150	: DECISION ON REQUEST
Dotan, et al.	: FOR
Issue Date: September 22, 2009	: RECONSIDERATION OF
Application No. 10/728,227	: PATENT TERM ADJUSTMENT
Filed: December 3, 2003	: and
Atty Docket No. 25681-502-P	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and fifteen (815) 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 eight hundred and fifteen (815) days is **GRANTED**.

Deposit account 50-0311 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and fifteen (815) days**.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,150 B2

DATED : Sept. 22, 2009

INVENTOR(S) : Dotan 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 (412) days

Delete the phrase "by 412 days" and insert – by 815 days--

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 7,592,150	:	DECISION ON REQUEST FOR
DOTAN et al.	:	RECONSIDERATION OF
Issue Date: September 22, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/728,227	:	AND
Filed: December 3, 2003	:	NOTICE OF INTENT TO ISSUE
Docket No. 25681-502-P	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting reconsideration of the patent term adjustment calculation.

The request for reconsideration of the patent term adjustment calculation is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **eight hundred fifteen (815) days**.

On November 20, 2009, patentee submitted a petition under 37 CFR 1.705(d) and fee. On March 12, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth*. On April 13, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 815 days. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 1218 days.

The Office notes that the decision of April 21, 2010, was issued in error as it accorded patentee 403 more days of patent term adjustment than were warranted. Accordingly, the decision of April 21, 2010, is withdrawn. The present decision supersedes the decision mailed on April 21, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is **815 days**. The 403 additional days of adjustment will be removed.

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

The Office acknowledges the previous submission of the required fee of $200.00 set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **815 days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Copy of DRAFT Certificate of Correction and Copy of REVISED PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,150 B2

DATED : Sept. 22, 2009 **DRAFT**

INVENTOR(S) : Dotan 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 412 days

Delete the phrase "by 412 days" and insert – by 815 days--

PALM INTRANET

Day : Monday
Date: 6/7/2010
Time: 14:55:22

PTA Calculations for Application: 10/728227			
Application Filing Date:	12/03/2003	PTO Delay (PTO):	999
Issue Date of Patent:	09/22/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	184
Post-Issue Petitions:	0	Total PTA (days):	815
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	06/07/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		403	
91	04/17/2010	PETITION DECISION - GRANTED			
90	04/13/2010	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
89	04/13/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
89	04/13/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
88	04/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO			
88	04/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	403		
87	03/12/2010	PETITION ENTERED			
86	11/20/2009	PETITION ENTERED			
85	10/21/2009	POST ISSUE COMMUNICATION - CERTIFICATE OF CORRECTION			
84	09/22/2009	RECORDATION OF PATENT GRANT MAILED			
83	09/02/2009	ISSUE NOTIFICATION MAILED			
82.5	01/10/2008	PTA 36 MONTHS	403		
82	09/22/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
81	08/21/2009	EXPORT TO FINAL DATA CAPTURE			
80	08/20/2009	DISPATCH TO FDC			
79	08/13/2009	MAIL-PETITION DECISION - DISMISSED			
78	08/13/2009	PETITION DECISION - DISMISSED			
77	06/30/2009	PETITION ENTERED			
76	07/01/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
75	06/30/2009	ISSUE FEE PAYMENT VERIFIED			

74	06/30/2009	ISSUE FEE PAYMENT RECEIVED			
73	05/05/2009	FINISHED INITIAL DATA CAPTURE			
72	04/03/2009	EXPORT TO INITIAL DATA CAPTURE			
71	04/01/2009	RESPONSE TO REASONS FOR ALLOWANCE			
69	03/31/2009	MAIL NOTICE OF ALLOWANCE			
68	03/27/2009	ISSUE REVISION COMPLETED			
67	03/27/2009	DOCUMENT VERIFICATION			
66	03/27/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	03/27/2009	CASE DOCKETED TO EXAMINER IN GAU			
64	03/26/2009	EXAMINER'S AMENDMENT COMMUNICATION			
63	03/26/2009	NOTICE OF ALLOWABILITY			
62	03/23/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
61	03/25/2009	DATE FORWARDED TO EXAMINER			
60	03/18/2009	RESPONSE AFTER NON-FINAL ACTION			
55	03/18/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
54	03/12/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	12/23/2008	MAIL NON-FINAL REJECTION			
52	12/22/2008	NON-FINAL REJECTION			
51	10/22/2008	PARALEGAL TD ACCEPTED			
50	09/05/2008	TERMINAL DISCLAIMER FILED		0	47
49	09/05/2008	MISCELLANEOUS INCOMING LETTER			
48	10/17/2008	DATE FORWARDED TO EXAMINER			
47	09/05/2008	RESPONSE AFTER NON-FINAL ACTION		92	43
46	09/05/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	07/09/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	06/26/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	03/05/2008	MAIL NON-FINAL REJECTION			
42	02/28/2008	NON-FINAL REJECTION			
41	01/11/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
40	01/29/2008	DATE FORWARDED TO EXAMINER			
39	01/11/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

38	01/29/2008	DATE FORWARDED TO EXAMINER			
37	01/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	33
36	01/29/2008	DISPOSAL FOR A RCE / CPA / R129			
35	01/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	01/11/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	07/11/2007	MAIL FINAL REJECTION (PTOL - 326)			
32	07/09/2007	FINAL REJECTION			
31	04/29/2007	DATE FORWARDED TO EXAMINER			
30	04/05/2007	RESPONSE AFTER NON-FINAL ACTION			
29	01/05/2007	MAIL NON-FINAL REJECTION			
28	12/29/2006	NON-FINAL REJECTION			
27	10/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	11/01/2006	DATE FORWARDED TO EXAMINER			
24	10/20/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
23	09/22/2006	MAIL RESTRICTION REQUIREMENT	596		-1
22	09/18/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
21	03/17/2006	REFERENCE CAPTURE ON IDS			
20.7	03/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/04/2005	REFERENCE CAPTURE ON IDS			
18.7	10/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	10/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	09/27/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	09/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	06/18/2004	NEW OR ADDITIONAL DRAWING FILED			
14	06/18/2004	PRELIMINARY AMENDMENT			
13	07/13/2004	APPLICATION RETURN FROM OIPE			
12	07/13/2004	APPLICATION RETURN TO OIPE			
11	07/13/2004	APPLICATION DISPATCHED FROM OIPE			
10	07/13/2004	APPLICATION IS NOW COMPLETE			

9	06/18/2004	ADDITIONAL APPLICATION FILING FEES			
8	06/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	06/18/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	03/18/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	03/01/2004	CLEARED BY L&R (LARS)			
4	02/11/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	02/11/2004	CASE CLASSIFIED BY OIPE			
2	12/28/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/03/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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NEW YORK, NY 10018

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OFFICE OF PETITIONS

In re Application of	:	
Mardon et al.	:	
Application No. 10/728,237	:	DECISION ON PETITION
Filed: December 3, 2003	:	
Attorney Docket No. 12928/10022	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 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 and a Terminal Disclaimer, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center 1793 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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LATIMER IP LAW, LLP
13873 PARK CENTER ROAD
SUITE 122
HERNDON, VA 20171

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MAY 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Cindy Orser et al	:	
Application No. 10/728,246	:	DECISION ON PETITION
Filed: December 4, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ADL-101	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 31, 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 Eugene A. Davidson stating 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 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 1743 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of Ravi Hariprasad, Rajesh Ghanta, Praveen Ghanta and Ravi Ghanta Application No. 10/728,249 Filed: December 4, 2003 Attorney Docket No. 291966-00003	: : : : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR § 1.47(b), filed September 13, 2004.

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

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

The above-identified application was filed on December 4, 2003, without an executed oath or declaration, missing the statutory basic filing fee, and with additional claim fees due. Accordingly, on June 25, 2004, applicants were mailed a "Notice to File Missing Parts of Application," requiring submission of an executed oath or declaration, payment of the basic filing fee, and payment of a surcharge for late filing under § 1.16(l). This Notice set a period for reply of two months, with extensions of time obtainable under § 1.136(a).

With the instant petition, petitioner submitted a DECLARATION OF ASSIGNEE FOR UTILITY PATENT APPLICATION (37 CFR 1.63) executed by Duncan Mackay for the assignee with a 3.73(b) statement, and paid the outstanding fees. To make the reply time, the petition was accompanied by a petition for extension for response within the first month (and fee). A declaration signed by less than all of the inventors is not a proper reply to the Notice of Missing Parts, except as provided for in §§ 1.42, 1.43, 1.47, or § 1.67.

§ 1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP § 409.03(g).

See 35 U.S.C. §118; 37 C.F.R. §1.47; §§ 409.03 and 605 of the *Manual of Patent Examining Procedure* (8th ed)

The petition includes the petition fee and the inventors' last known addresses. An assignment of the instant application to rule 47(b) applicant is of record in the Office.

However, the instant petition lacks requirements (1), (2), and (3) and (7):

As to items (1) and (2),

The declaration submitted is executed by Duncan Mackay on behalf of all of the inventors. Furthermore, the petition includes a 3.73(b) statement that Mr. Mackay is authorized to sign on behalf of the assignee. However, title of Mackey ...

Moreover, where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must still state the full name, residence, post office address, and citizenship of the non-signing inventor. See MPEP 409.03(b). As stated in the Notice mailed October 7, 2004, the instant declaration does not include the citizenships of the non-signing inventors. Moreover, identifying of the citizenship of the inventors is a statutory requirement and thus, cannot be waived. It is not sufficient to state "citizenship unknown."

In addition § 1.64(b) provides that:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor is required to state. The instant declaration does not state the relationship of Mr. Mackey to the inventors.

As to item (3),

Petitioner has not shown that the inventors, by their conduct, have refused to join in the application. Before a refusal can be alleged, applicant must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The evidence on petition only supports a conclusion that the combined declaration and power of attorney and assignment were

sent to the non-signing inventors. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Thus, on renewed petition, applicant must establish that the entire application package, including specification, claims and drawings, were presented to the non-signing inventors and they subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventors, or, if the inventor(s) are represented by counsel, to the address of the non-signing inventors' attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

As to item (7),

Petitioner makes no assertion. On request for reconsideration, rule 47 applicant must submit proof of irreparable damage. See MPEP §409.03(g).

On Request for Reconsideration, to avoid abandonment and attain 1.47 status, applicant must correct the noted deficiencies and provide a 1.47 petition in compliance with all applicable law.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Ravi Hariprasad, Rajesh Ghanta,	:	DECISION REFUSING
Praveen Ghanta and Ravi Ghanta	:	STATUS UNDER
Application No. 10/728,249	:	37 CFR 1.47(a)
Filed: December 4, 2003	:	
Attorney Docket No. 291966-00003	:	

This is in response to the PETITION TO ACCEPT A DECLARATION SIGNED BY TWO OF THE FOUR INVENTORS UNDER 37 C.F.R. § 1.47(a), filed August 18, 2005.

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 December 4, 2003, without an executed oath or declaration, missing the statutory basic filing fee, and with additional claim fees due. In response to the "Notice to File Missing Parts of Application" mailed June 25, 2004, applicants submitted a DECLARATION OF ASSIGNEE FOR UTILITY PATENT APPLICATION (37 CFR 1.63) executed by Duncan Mackay for the assignee with a 3.73(b) statement, and paid the outstanding fees. By decision mailed May 24, 2005, a

previous petition under 37 CFR 1.47(b) was dismissed for failure to i) submit an acceptable oath or declaration, including the relationship to the inventors of the person signing on behalf of the assignee; ii) provide adequate proof of the unavailability of the non-signing inventors; and iii) prove that the filing of the application by the 47(b) applicant was necessary to preserve the rights of the parties or to prevent irreparable damage.

In response, applicants filed the instant petition under § 1.47(a), along with a declaration executed by joint inventors Praveen Ghanta and Ravi Ghanta on behalf of themselves and on behalf of non-signing joint inventors Rajesh Ghanta and Ravi Hariprasad. This response was made timely by an accompanying petition and fee for extension of time.

To the following extent, applicants have now satisfied the deficiencies for status under 1.47. Requirement iii) noted above is no longer a deficiency as it is not required to satisfy 1.47(a). Furthermore, on previous petition, applicants satisfied the shared requirements under 1.47(a) and (b) that the petition include payment of the petition fee and a statement of the last known address of the non-signing inventors. Furthermore, the instant petition satisfies requirement ii). The petition includes adequate proof that the non-signing inventors have, by their conduct, refused to join in the application.

However, the instant petition must be dismissed because one deficiency remains outstanding. As stated in the Notice mailed October 7, 2004 and as reiterated in the decision mailed May 24, 2005, an acceptable declaration must include the citizenship of the inventors. The declaration received on renewed petition still does not include this information for all of the inventors. A review of the record does not reveal that any further declaration was received. Identifying of the citizenship of the inventors is a statutory requirement and thus, cannot be waived. It is not sufficient to state "citizenship unknown."

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

By mail: Mail Stop Petition
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Alexandria, VA 22313-1450

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

By hand: Customer Service Window
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Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Ravi Hariprasad, Rajesh Ghanta,	:	DECISION ACCORDING
Praveen Ghanta and Ravi Ghanta	:	STATUS UNDER
Application No. 10/728,249	:	37 CFR 1.47(a)
Filed: December 4, 2003	:	
Attorney Docket No. 291966-00003	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR § 1.47(a), filed January 17, 2006.

The petition under 37 CFR § 1.47(a) is **GRANTED**.

The above-identified application was filed on December 4, 2003, without an executed oath or declaration, missing the statutory basic filing fee, and with additional claim fees due. In response to the "Notice to File Missing Parts of Application" mailed June 25, 2004, applicants submitted a DECLARATION OF ASSIGNEE FOR UTILITY PATENT APPLICATION (37 CFR 1.63) executed by Duncan Mackay for the assignee with a 3.73(b) statement, and paid the outstanding fees. By decision mailed May 24, 2005, a previous petition under 37 CFR 1.47(b) was dismissed for failure to i) submit an acceptable oath or declaration, including the relationship to the inventors of the person signing on behalf of the assignee; ii) provide adequate proof of the unavailability of the non-signing inventors; and iii) prove that the filing of the application by the 47(b) applicant was necessary to preserve the rights of the parties or to prevent irreparable damage. On August 18, 2005, applicants filed a renewed petition requesting status under § 1.47(a). However, by decision mailed October 3, 2005, the petition was dismissed because the declaration

submitted was not in compliance with §§ 1.63 and 1.64 as it did not include the citizenship of all of the inventors.

On instant renewed petition, made timely by a petition for extension of time to respond within the first month (and fee), applicants submitted a declaration which includes the citizenship of all of the inventors. The declaration filed January 17, 2006, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. RAVI HARIPRASAD
15 Sleeper Street
STE 404
Boston, MA 02210

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MAY 09 2006

OFFICE OF PETITIONS

In re Application of :
Ravi Hariprasad, Rajesh Ghanta :
Praveen Ghanta and Ravi Ghanta : LETTER
Application No. 10/728,249 :
Filed: December 4, 2003 :
Attorney Docket No. 291966-0003 :

Dear Mr. Hariprasad:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. 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 (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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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MR. RAJESH GHANTA
60 Charles Gate West
Apt. 4B
Boston, MA 02215

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MAY 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Ravi Hariprasad, Rajesh Ghanta	:	
Praveen Ghanta and Ravi Ghanta	:	LETTER
Application No. 10/728,249	:	
Filed: December 4, 2003	:	
Attorney Docket No. 291966-0003	:	

Dear Mr. Ghanta:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. 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 (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of
Kobayashi et al
Application Number: 10/728,281
Patent: 6,968,755
Attorney Docket Number:
01776/1200580-US1
Filing Date: December 3, 2003
Issue Date: November 29, 2005

DECISION ON PETITION

This is a decision on the petition filed January 10, 2006 under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

Deposit account no. 04-0100 will be refunded $270.00.

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

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/02/2010

Applicant	: Brian Francis Cox	: DECISION ON REQUEST FOR
Patent Number	: 7624431	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/728,302	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **855** 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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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

Mail Date: 04/21/2010

Applicant	: Steven Baker	: DECISION ON REQUEST FOR
Patent Number	: 7650297	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/728,322	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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Forrest Chadwick
3316-18 Caroline Ave
Culver City, CA 90232

FAX RECEIVED

MAY 26 2005

OFFICE OF PETITIONS

In re Application of
Theodore E. Anvick, et al.
Application No. 10/728,331
Filed: December 4, 2003
Attorney Docket No. None

ON PETITION

This is a decision in response to the petition, filed February 3, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is DISMISSED since it is not properly executed. The petition is signed by only one of the two joint inventors.

37 CFR 1.33(b) states that:

Amendments and other papers filed in the application must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

This is **not** final agency action within the meaning of 5 U.S.C. § 704. 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)" and include a ratification of the unsigned petition. No further petition fee is required.

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

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

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

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

Any questions concerning this matter 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

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

FORREST RYAN CHADWICK
3318 CAROLINE AVE.
CULVER CITY, CA 90232

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Theodore E. Anvick, et al. :
Application No. 10/728,331 : ON PETITION
Filed: December 4, 2003 :
Attorney Docket No. None :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 21, 2005, to revive the above-identified application.

A review of the record discloses that the application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed March 9, 2004, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. A Notice of Abandonment was mailed December 7, 2004. On February 3, 2005, a petition was filed including, *inter alia*, the replacement drawings. However, the petition was dismissed in a decision mailed May 26, 2005 since it was not signed pursuant to 37 CFR 1.33(b). In response on June 21, 2005, the present petition was filed.

The renewed petition is found to comply with the requirements of 37 CFR 1.33(b). Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

Per petitioners' request, a copy of the petition filed February 3, 2005 is enclosed.

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings provided on February 3, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

Enclosure: Copy of the petition filed February 3, 2005

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

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 29 2005

OFFICE OF PETITIONS

In re Application of Shih-fu Chang et al Application No. 10/728,345 Filed: December 4, 2003 Attorney Docket No. A31067-PCT-USA-I	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 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 a formalized drawing (Figure 6) and Abstract; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Applicatin Papers of December 30, 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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United States Patent and Trademark Office
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Invista North America S.A.R.L.
Three Little Falls Cenrtre/1052
2801 Centerville Road
Wilmington, DE 19808

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JUN 1 7 2008

OFFICE OF PETITIONS

In re Application of :
Tianyi Liao :
Application No. 10/728,358 : DECISION ON PETITION
Filed: December 3, 2003 :
Attorney Docket No. LP 4820 US NA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1) mailed April 9, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 10, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed on August 16, 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 Appeal Brief, only the brief was filed, fee had already been paid with previous brief, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Technology Center AU 1771 for appropriate action in the normal course of business for processing of the Appeal Brief received September 27, 2007.

Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP - 8 2004

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of Keith Packham et al Serial No.: 10/728383 Filed: December 05, 2003 Attorney Docket No.: 674519-2029	: PETITION TO MAKE SPECIAL

This is in response to applicants petition filed December 05, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d) and MPEP 708.02, X, based on compositions and methods of treating cancer, by affecting the oestrone sulphatase pathway. Delay in responding to the petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X and submitted the appropriate fee under 37 C.F.R 1.17(h) . Therefore the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Jean F. Vollano, by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile transmission to the general Office facsimile number.

Jean F. Vollano.
Special Program Examiner
Technology Center 1600

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DEC 27 2004

OFFICE OF PETITIONS

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of :
Smith et al. :
Application No. 10/728,385 :
Filed: December 12, 2003 : ON PETITION
Attorney Docket Number: :
SYN-8311 :

This is a decision in response to the Reply to Notice of Incomplete Nonprovisional Application and Petition Under 37 CFR §[§] 1.10 and 1.8(b). The petition is properly treated under 37 CFR 1.53.

The petition is **granted**.

The application was filed on December 12, 2003. However, on September 10, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that the application had NOT been accorded a filing date because the application was deposited without drawings.

In response, Applicant files the instant petition wherein Applicant avers that 40 drawings were originally filed with the application on December 5, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Applicant provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 40 drawings on December 5, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of, *inter alia*, 40 drawings on December 5, 2003. Petitioner has also re-submitted 40 sheets of drawings with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post

card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 40 drawings, supplied with the instant petition on October 12, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 12-1099 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of December 5, 2003, and an indication that 40 drawings were present on filing, using the 40 pages of drawings filed on October 12, 2004.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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SEP 1 9 2005

TECHNOLOGY CENTER 3600

HANLEY, FLIGHT & ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO IL 60606

APPLICANT: FISCHBACH et al.
SERIAL NO. 10/728,403
FILED: December 5, 2003
DOCKET # 20020/10012

:PETITION FOR WITHDRAWAL
:OF RESTRICTION REQUIREMENT

FOR: METHOD AND APPARATUS TO LOCK
A DUST COVER IN A FIREARM HOUSING

This is in response to the petition filed on June 12, 2006 for withdrawal of the restriction requirement mailed on 8/31/2005.

The petition is GRANTED.

FACTS

On December 2, 2004, a non-final office action was mailed rejecting claims 1-23.

On June 2, 2005, applicant filed a response to the rejection.

On August 31, 2005, a requirement for restriction was mailed restricting claims 22-23 from claims 1-21.

On October 3, 2005, applicant filed an election provisionally electing claims 1-21 with traverse. Applicant further amended claims 22-23 to include the limitations of claim 1.

On December 8, 2005, applicant mailed a non-final office action and made the restriction requirement final.

On June 12, 2006, a response to the office action was filed as well as the instant petition. These papers had a certificate of mailing dated June 8, 2006.

DISCUSSION

Applicant sets forth a number of reasons why the restriction is improper. However, rather than discussing each and every issue a cursory review of the remarks and the restriction requirement results in the following:

Applicant argues that the grouping of the claims as combination-subcombination is an improper indication of restriction since applicant has amended claims 22 and 23 to include the limitations of claim 1.

Restriction between a combination and subcombination is proper when it can be shown that the combination does not require the specifics of the subcombination as claimed for patentability, and that the subcombination has utility by itself or in other combinations. However, if a claim is present that is evidence that the details of a combination claim does not rely upon the details of the subcombination for patentability, then restriction may be proper.

The reasoning presented by the examiner sets forth a combination-subcombination restriction in light of an evidence claim. A review of these claims does not show that the combination, presumably claims 22 and 23, do not rely on the subcombination, presumably claim 1, for patentability, when considering claim 13 as an evidence claim. Therefore the restriction as set forth is improper and is hereby withdrawn.

Applicant is reminded that a response is due to the Office action mailed on August 21, 2006.

The petition is GRANTED.

Any question concerning this decision should be referred to SPE Michael Carone at 571-272-6873.

Donald Hajec
Director, TC 3600

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In re Patent No. 6934399
Issue Date: August 23,2005
Application No. 10728411
Filed: December 5,2003
Attorney Docket No. 3304.2.103

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

This is a decision on the electronic petition, filed June 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 24,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,934,399	2005-08-23	10/728,411	2003-12-05	15248.177

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	/Evan R. Witt/	Date (YYYY-MM-DD)	2010-06-24
Name	Evan R. Witt	Registration Number	32512

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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SEP 12 2005

LAW OFFICES OF JOHN D. GUGLIOTTA P.E.; ESQ.
202 DELAWARE BUILDING
137 SOUTH MAIN STREET
AKRON, OH 44308

In re application of Gordon H. Curtiss Application No. 10/728,416 Filed: December 08, 2003 For: DEVICE FOR AND METHOD OF DISPLAYING MESSAGES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on December 08, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a signed declaration indicating Mr. Curtiss 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 petitioners makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 08/22/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Joseph W. Cole	: DECISION ON REQUEST FOR
Patent Number	: 7618316	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/728,422	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1151** 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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ASHKAN NAJAFI PA
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Bruce C. Doan	:	
Application No. 10/728,430	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. JAM948	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 26, 2008, and supplemented on February 28, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed September 6, 2007. This Notice set a statutory period for reply of three (3) months. No corrected drawings having been received, the application became abandoned on December 7, 2007. A Notice of Abandonment was mailed on January 31, 2008.

Petitioner contends that the Notice of Allowability's requirement for corrected drawings was made in error. In support thereof, petitioner has included a copy of e-mail correspondence from examiner Willie Berry, in which he acknowledges that he should not have checked the corrected drawings box on the Notice of Allowability. According to examiner Berry, Applicant's amendment filed on June 14, 2007 fixed the drawing fixed the drawing problem.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MAY 25 2004

OFFICE OF PETITIONS

In re Application of
T. William Hutchens et al.
Application No. 10/728,442
Filed: December 5, 2003
Attorney Docket No. 016866-001507
Title: METHOD AND APPARATUS FOR DESORPTION AND IONIZATION OF ANALYTES

DECISION ON PETITION

This is a decision on the "Response to Notice to File Corrected Application Papers," filed March 3, 2004, which is properly treated as a petition under 37 C.F.R. 1.53, requesting that the above-identified application be accorded a filing date of December 5, 2003, with the abstract submitted with the instant petition considered as part of the original disclosure of the application. Petitioner has also submitted replacement drawings.

The application was deposited December 5, 2003. However, on January 23, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without an abstract and Figures 7A-7D, 12A, 12B, 14A, and 14B. With the instant petition, Petitioner has submitted 21 sheets of "replacement drawings," an abstract, and a statement of facts.

Regarding the drawings, Petitioner does not assert that the above-mentioned Figures were included on filing, which suggests that they were in fact omitted on filing. As such, the drawings submitted with the instant petition, will not be entered. If petitioner desires for the examiner to consider the missing figures which were not submitted as part of the original disclosure, then petitioner may submit those pages as an amendment. Any such amendment will, of course, be

reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

Regarding the abstract, Petitioner states that the abstract was constructively included on filing, through incorporation by reference. The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a continuation of prior application 09/809,657, and specifically incorporated by reference the disclosure of the prior application. Section 201.06(c) of the MPEP sets forth, in part:

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

(Emphasis added).

If petitioner desires for the examiner to consider the missing abstract which was not submitted as part of the original disclosure, then petitioner may submit that page via an amendment. Again, any such amendment will, of course, be reviewed by the examiner for new matter[2]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

For these reasons, the petition under 37 CFR 1.53(b) is <u>dismissed</u>.

Neither the drawings nor the abstract submitted with the instant petition, will be entered. Should petitioner wish for these pages to be entered, an amendment must be filed. <u>The original application papers will include only those application papers present on the date of deposit</u>. The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 5, 2003, <u>using only the application papers filed on that date</u>.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-0011.

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

1 See MPEP 608.02(h) and 608.04.
2 <u>Id</u>.

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NOV 29 2007

3M INNOVATIVE PROPERTIES COMPANY
P. O. BOX 33427
ST. PAUL, MN 55133-3427

In re Application of	:
Scott Burton et al	:
Serial No.: 10/728,446	: PETITION DECISION
Filed: December 5, 2003	:
Attorney Docket No.: 59427US0002	:

This is in response to the petition under 37 CFR 1.144, filed November 1, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on December 5, 2003, and contained claims 1-44. In a first Office action, mailed April 16, 2007, the examiner required restriction between the inventions claimed, as follows:

Group I – claims 1-14, 25 and 36-37, drawn to a method of coating a silver compound on a substrate;
Group II – claims 15-24, 26 and 38, drawn to a method of coating a silver compound on a substrate;
Group III – claims 27-35 and 39, drawn to a method of coating a silver compound on a substrate; and
Group IV – claims 40-44, drawn to a article comprising a porous substrate impregnated with a silver compound

An election of species was also required if any of Groups I-III were elected.

The examiner stated that Groups I-III were unrelated as having different designs. The examiner noted that Group II required silver oxide and ammonium carbonate to effect the silver coating which the other Groups did not require and that Group III required only silver oxide. Groups I-III were also stated to be distinct from Group IV, drawn to an article.

Applicants replied on May 8, 2007, electing Group I with traverse, and a species, as required. Applicants requested reconsideration of the species requirement and the restriction between Groups I-III, arguing that Group I is generic to Groups II and III and there is no additional search burden imposed on the Office by this relationship.

The examiner mailed a new Office action to applicants on July 20, 2007, acknowledging the election of Group I and the species, and the traversal of the requirements. The examiner withdrew the election of species requirement, but maintained the restriction requirement on the basis that Group II requires silver oxide and ammonium carbonate not required by Group I and Group III required ammonium carbonate not required by Group I. The examiner continued to maintain the search for the various components would be an undue burden. The examiner made the requirement Final. The examiner also held the failure to argue the restriction with respect to Group IV as an election without traverse. Claims 1-44 were then provisionally rejected for obvious double patenting over SN 10/917,002. Claim 25 was rejected under 35 U.S.C. 112, first paragraph, as lacking written description. Claims 14 and 25 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-2, 5, 9-14, 25 and 36 were rejected under 35 U.S.C. 102(b) as anticipated by GB 769,799. Claims 3-4, 7-8 and 37 were rejected under 35 U.S.C. 103(a) as unpatentable over GB 769.799 in view of WO 02/43743. Claim 6 was rejected under 35 U.S.C. 103(a) as unpatentable over GB 769,799 in view of US 4,592,920.

Applicants replied on October 22, 2007, amending claims 1, 15 and 25, and responding to all of the rejections of record.

This petition was filed on November 1, 2007, traversing the restriction requirement as being in error.

DISCUSSION

Applicants' petition is directed to the restriction between Groups I-III, the method of making claims and that Group I is generic to Groups II and III and no restriction should be required as there is no undue burden to search all three sets of claims.

As set forth, original Claim 1 requires combining a sparingly soluble silver compound with an ammonium compound in an aqueous solution and coating the solution on a substrate and drying. Various dependent claims define specific silver compounds (claim 5, 6) including silver oxide and ammonium compounds (claim 7, 8) including ammonium carbonate. Claim 15 requires combining silver oxide with ammonium carbonate in an aqueous solution and coating the solution on a substrate and drying. Claim 27 requires combining silver oxide with an ammonium containing compound and an oxidizing agent in an aqueous solution and coating the solution on a substrate and drying.

Although the examiner based the restriction requirement on claims 1, 15 and 27, it is clear from a review of the claims that claims dependent on claim 1, such as claims 5-8, recite all of the limitations of claim 15 and all of the limitations of claim 27 except the oxidizing agent which is set forth in claim 12. Based on this and the requirement of the examiner to search all of the limitations of the claims of elected Group I, no requirement for restriction is proper. Further, it is noted that each of Groups I-III is classified in the same class and subclass defeating the examiner's argument of undue search burden.

It is noted that applicants' petition does not argue the restriction between Groups I-III and IV.

DECISION

The petition is **GRANTED.** Claims 1-39 will be examined together. Claims 40-44 remain withdrawn.

The application will be forwarded to the examiner for consideration of applicants' reply filed October 22, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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SUITE 309
HAWTHORNE, NY 10532

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of :
Roy E. Scheuerlein et al :
Application No. 10/728,451 :
Filed: December 5, 2003 :
Attorney Docket No. SD-MA-112 :

ON PETITION

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

The petition is **DISMISSED.**

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

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

A petition to revive cannot be granted where there is an outstanding requirement(s). 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 May 24, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 25, 2007. Accordingly, the petition to revive cannot be granted until the $1440 Issue fee and $300 Publication fee is received.

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

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DUGAN & DUGAN, PC
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HAWTHORNE, NY 10532

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AUG 29 2008

In re Application of
Roy E. Scheuerlein et al
Application No. 10/728,451
Filed: December 5, 2003
Attorney Docket No. SD-MA-112

ON PETITION

This is a decision on the petitions filed August 25, 2008 under 37 CFR 1.137(b), to revive the above-identified application and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) 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 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 petition under 37 CFR 1.313(c)(2) 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 25, 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.

[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).

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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7114 W. JEFFERSON AVE.
SUITE 100
LAKEWOOD CO 80235-2309

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Kingsley A. Whipple	:	
Application No. 10/728461	:	DECISION
Filing or 371(c) Date: 12/05/2003	:	ON PETITION
Attorney Docket Number: 7142.02.01	:	

This is a decision on the Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed April 16, 2008, and supplemented May 15, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 24, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned July 25, 2007. An issue fee payment was submitted July 24, 2007; however, the fee payment was deficient.

Applicant files the present renewed petition and the balance of the issue due.

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

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

This application is being referred to the Office of Data Management for processing 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
WWW.USPTO.GOV

Paper No. None

Keating & Bennett LLP
Suite 312
10400 Eaton Place
Fairfax VA 22030

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AUG 23 2004
OFFICE OF PETITIONS

In re Application of
Jun Endo et al.
Application No. 10/728,464
Filing Date: December 5, 2003
Attorney Docket No. 36856.1172
Title: POINTING DEVICE AND METHOD OF PRODUCING THE SAME

DECISION ON PETITION

BACKGROUND

This is a decision on the petition filed July 9, 2004, requesting that the above-identified application be accorded a filing date of December 5, 2003, with Figure 3 as part of the original disclosure of the application.

The application was deposited December 5, 2003. However, on July 1, 2004, the Office of Initial Patent Examination (OIPE) mailed a notice stating that the application had been accorded a filing date of December 5, 2003, and that the application appeared to have been deposited without Figure 3.

With the instant petition, Petitioner has submitted a copy of Figure 3 along with the petition fee. Petitioner has asserted that Figure 3 was included on filing. In order to support this allegation, Petitioner has included a copy of his postcard receipt acknowledging receipt of "drawings 7 sheets (formal)" in the United States Patent and Trademark Office (Office) on December 5, 2003.

THE RELEVANT SECTION OF THE MPEP

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

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 postcard 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.

ANALYSIS

It is noted that the electronic file contains 7 pages of drawings, containing Figures 1-2, 5-7, and two copies of Figure 4. Figure 3 has not been located in the electronic file.

Obviously, the degree on which applicants may rely on a postcard receipt to establish receipt of a particular item depends on the specificity of the itemization. Since the postcard indicates that 7 pages of drawings were included on filing, and 7 pages of drawings were indeed located in the electronic file, it appears that each of the seven pages which were submitted made their way into the electronic file. Unfortunately, figure 3 does not appear to be among these pages.

The PTO file is the official record of all papers filed in this application. A review of the official file reveals that Figure 3 was not received on filing. Instead, a duplicate copy of Figure 4 appears to have been filed in its stead. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner's assertion that figure 3 was included on filing is not more persuasive than either the electronic file or the postcard receipt which he prepared and submitted.

As such, it appears that Figure 3 was not filed with the Office on December 5, 2003. For this reason, the petition cannot be granted.

CONCLUSION

For these reasons, the petition is **DISMISSED**.

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

The application file is being returned to OIPE for further processing with a filing date of December 5, 2003, using only the application papers which were filed on that date. Figure 3 will not be entered.

If petitioner desires for the examiner to consider this page which was not submitted as part of the original disclosure, then petitioner may submit this figure via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

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

1 See MPEP 608.02(h) and 608.04.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Keating & Bennett LLP
Suite 312
10400 Eaton Place
Fairfax VA 22030

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OFFICE OF PETITIONS

In re Application of
Jun Endo et al.
Application No. 10/728,464
Filing Date: December 5, 2003
Attorney Docket No. 36856.1172
Title: POINTING DEVICE AND METHOD OF PRODUCING THE SAME

DECISION ON RENEWED PETITION

This is a decision on the renewed petition filed August 31, 2004, requesting that the above-identified application be accorded a filing date of December 5, 2003, with Figure 3 as part of the original disclosure of the application.

The application was deposited December 5, 2003. However, on July 1, 2004, the Office of Initial Patent Examination (OIPE) mailed a notice stating that the application had been accorded a filing date of December 5, 2003, and that the application appeared to have been deposited without Figure 3.

The original petition, submitted on July 9, 2004, was dismissed via the mailing of a decision on August 23, 2004, for failure to establish that the missing figure was included on filing. The decision set forth:

Obviously, the degree on which applicants may rely on a postcard receipt to establish receipt of a particular item depends on the specificity of the itemization. Since the postcard indicates that 7 pages of drawings were included on filing, and 7 pages of drawings were indeed located in the electronic file, it appears that each of the seven pages which were submitted made their way into the electronic file. Unfortunately, figure 3 does not appear to be among these pages.

The PTO file is the official record of all papers filed in this application. A review of the official file reveals that Figure 3 was not received on filing. Instead, a duplicate copy of Figure 4 appears to have been filed in its stead. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner's assertion that figure 3 was included on filing is not more persuasive than either the electronic file or the postcard receipt which he prepared and submitted.

As such, it appears that Figure 3 was not filed with the Office on December 5, 2003. For this reason, the petition cannot be granted.

With this renewed petition, Petitioner has requested that "the original paper copy of the application as filed on December 5, 2003 be reviewed by the USPTO to confirm that Figure 3 was deposited in the USPTO with the application papers filed on December 5, 2003[1]." Petitioner has asserted that Figure 3 was submitted on filing, and the presence of two copies of Figure 4 is due to an error made by Office personnel during the scanning and image capture process.

Petitioner will note that it is the *electronic copy* of the PTO file which is the PTO file that is the official record of all papers filed in this application. As stated previously, a review of the official file reveals that Figure 3 was not received on filing. As such, the paper copy will not be inspected, and the renewed petition cannot be granted.

As such, the renewed petition is **DISMISSED**.

The application file is being returned to OIPE for further processing with a filing date of December 5, 2003, using only the application papers which were filed on that date. Figure 3 will not be entered.

If petitioner desires for the examiner to consider this page which was not submitted as part of the original disclosure, then petitioner may submit this figure via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[2]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

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

Paul Shanoski

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

1 Renewed Petition, page 2.
2 See MPEP 608.02(h) and 608.04.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL LEGAARD
COZEN O'CONNOR
1900 MARKET ST
PHILADELPHIA, PA 19103

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JUL 14 2006
OFFICE OF PETITIONS

In re Application of	:	
David J. Ecker et al	:	
Application No. 10/728,486	:	DECISION ON PETITION
Filed: December 5, 2003	:	TO WITHDRAW
Attorney Docket No. IBIS0060-100(DIBIS-0012U	:	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 24, 2005.

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

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

The correspondence address of record remains unchanged, which is the first address indicated below.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Medlen & Carroll LLP
101 Howard Street
Suite 350
San Francisco, CA 94105

cc: Medlen & Carroll
440 Science Drive
Suite 203
Madison, WI 53711

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

Casimir Jones, S.C.
440 Science Drive
SUITE 203
Madison, WI 53711

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:
David J. Ecker, et. al.	:
Application No. 10/728,486	: DECISION ON PETITION
Filed: December 5, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DIBIS-0012US.P1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 17, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the 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.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after

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

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

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

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

Casimir Jones, S.C.
440 Science Drive
SUITE 203
Madison, WI 53711

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:
David J. Ecker, et. al.	:
Application No. 10/728,486	: DECISION ON PETITION
Filed: December 5, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DIBIS-0012US.P1	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 4, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **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.

Since all of the above requirements have been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

This application is being forwarded to Technology Center Art Unit 1637, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/728,486	12/05/2003	1637	6524	DIBIS-0012US.P1	49	10

CONFIRMATION NO. 9735

CORRECTED FILING RECEIPT

58057
Casimir Jones, S.C.
440 Science Drive
SUITE 203
Madison, WI 53711

OC000000036491377

Date Mailed: 06/16/2009

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)

David J. Ecker, Encinitas, CA;
Richard H. Griffey, Vista, CA;
Rangarajan Sampath, San Diego, CA;
Steven A. Hofstadler, Oceanside, CA;
John McNeil, La Jolla, CA;
Stanley T. Crooke, Carlsbad, CA;
Lawrence B. Blyn, Mission Viejo, CA;
Raymond Ranken, Encinitas, CA;
Thomas A. Hall, Oceanside, CA;

Power of Attorney: The patent practitioners associated with Customer Number 58057

Domestic Priority data as claimed by applicant

This application is a CIP of 10/323,233 12/18/2002 ABN
and is a CIP of 10/326,051 12/18/2002 ABN
and is a CIP of 10/325,527 12/18/2002 ABN
and is a CIP of 10/325,526 12/18/2002 ABN
and claims benefit of 60/431,319 12/06/2002
and claims benefit of 60/443,443 01/29/2003
and claims benefit of 60/443,788 01/30/2003
and claims benefit of 60/447,529 02/14/2003
and claims benefit of 60/501,926 09/11/2003
and is a CIP of 10/660,122 09/11/2003
which is a CIP of 09/798,007 03/02/2001 ABN
and is a CIP of 10/156,608 05/24/2002 PAT 7,108,974
which is a DIV of 09/798,007 03/02/2001 ABN

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No
Title

Methods for rapid identification of pathogens in humans and animals

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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451 FLORIDA STREET
BATON ROUGE LA 70801

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of
Plantenga, et al.
Application No. 10/728,489
Filed: December 5, 2003
Attorney Docket No. ACH2976 US

ON PETITION

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

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the final Office action mailed January 10, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on April 11, 2008. A Notice of Abandonment was mailed on August 22, 2008.

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

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[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.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts the Advisory Action, informing petitioner that the response filed May 8, 2008, was not sufficient to place the application in condition for allowance, was not received at the address of record because the USPTO did not enter the request to change the correspondence address that was previously filed.

With regard to item (3), a review of the record reveals that Change of Correspondence Address was filed April 17, 2007, and was signed by Michael Bell. A review of the application filed history reveals that two other requests to change the correspondence address were filed on January 5, 2007, and March 28, 2007. None of the requests were entered because the person who signed the request was not an attorney of record for the customer number and, therefore, not authorized to make such a request. Accordingly, the USPTO continued to mail the correspondence to the address as cited in the application file. In order to successfully assert unavoidable delay in such a circumstance, petitioner must establish that a proper request to change the correspondence address was promptly filed prior to the date the communication was mailed. The instant petition does not accomplish this.

It is further noted the Advisory Action was not received at the correspondence address that should have been of record.. It is noted, however, that the mailing of an Advisory Action is not a requirement of the USPTO. It is incumbent upon petitioner to be sure that a proper and timely response to any Office action is received. Because petitioner received the final Office action, petitioner was responsible for ensuring that a timely and proper reply was filed thereafter. Accordingly, failure to receive the Advisory Action cannot be considered a cause for unavoidable delay in providing a timely and proper response to the final Office action.

It is also noted that the application became abandoned on April 11, 2008, and a Notice of Abandonment was mailed on August 22, 2008, yet the petition was not filed until more than a year later. Petitioner is required to establish that the entire delay—from the due date for the reply until the filing of a grantable petition was unavoidable. Accordingly, petitioner must explain when petitioner discovered the application was abandoned and how the entire period during which the application was abandoned was unavoidable.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required

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different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Leo Peters
LSI Logic Corporation
MS D-106
1621 Barber Lane
Milpitas CA 95035

COPY MAILED
DEC 29 2006
OFFICE OF PETITIONS

In re Application of	DECISION
Eric Hung, Geeta K. Desai, Vijendra Kuroodi,	AMENDING INVENTORSHIP RULE 48
Alexander Miretsky, Mirko Vojnovic	AND GRANTING RULE 47 STATUS
Application No. 10/728,492	
Filed: December 5, 2003	
Attorney Docket No. 03-1237 (5201-27600)	

This is a decision on the petitions filed October 26, 2004, which are being treated under 37 CFR §§ 1.183, 1.48(a) and 1.47(a), to waive the statement requirement of 37 CFR 1.48(a)(2), accept the declaration lacking the signature of the non-signing added joint inventor, and accord this application status under 37 CFR 1.47(a).

The petitions are **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application. It is agreed that under the extraordinary circumstances of this application, justice would be served by waiver of the requirements of 37 CFR 1.48(a)(2). Likewise, the same showing establishes that the declaration filed October 26, 2004 may be accepted under 37 CFR 1.47(a).

In view of the papers filed October 26, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the addition of: ALEXANDER MIRETSKY, MOUNTAIN VIEW, CA and MIRKO VOJNOVIC, SANTA CLARA, CA.

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 inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The required fee of $400 petition for the 37 CFR 1.183 petition has been charged to petitioner's deposit account. The $130 fee for the 37 CFR 1.48(a) petition was already charged.

This application is being referred to the Technology Center 2100 for action in its regular turn.

Telephone inquiries regarding this decision should be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/728,492	12/05/2003	2115	842	03-1237 (5201-27600)	4	24	3

CONFIRMATION NO. 9752

CORRECTED FILING RECEIPT

OC000000021601894

Leo Peters
LSI Logic Corporation
MS D-106
1621 Barber Lane
Milpitas, CA 95035

Date Mailed: 12/14/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Eric Hung, San Jose, CA;
Geeta K. Desai, Saratoga, CA;
Vijendra Kuroodi, Cupertino, CA;
ALEXANDER MIRETSKY, MOUNTAIN VIEW, CA;
MIRKO VOJNOVIC, SANTA CLARA, CA;

Power of Attorney:

David Rose--26223
Charles Huston--31027
Peter Scott--33279
Leo Peters--33562
Kevin Daffer--34146
Louise Miller--36609
Timothy Croll--36771
Sandeep Jaggi--43331
Mollie Lettang--48405
Ann Mewherter--50484

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/728,492

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Low power memory controller with leaded double data rate DRAM package arranged on a two layer printed circuit board

Preliminary Class

713

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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AUG 15 2007

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES CA 90067

In re Application of	:
Norberto a. Guzman	:
Serial No.: 10/728,499	: SUSPENSION OF ACTION
Filed: December 5, 2003	:
Attorney Docket No.: 67169-5004	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of one month, filed April 27, 2007. The delay in acting on this petition is regretted, but it was not forwarded for consideration until recently.

A review of the file history shows that applicants have replied to the last Office action. Applicants request that action on this application be suspended for one month in order to conduct an interview with the examiner and file a supplemental amendment.

§ 1.103 Suspension of action by the Office.

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

Inasmuch as applicants have since filing this petition conducted a telephonic interview and filed at least one supplemental amendment, the need for suspension of action is moot.

In view of the above reason the petition is **DISMISSED**.

The application will be forwarded to the examiner for consideration of applicants' replies.

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

John LeGuyader
Director, Technology Center 1600

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P.O. Box 1450
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PAUL K. LEGAARD
ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD CA 92008

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhang et al.	:	DECISION ON PETITION
Application No. 10/728,509	:	TO WITHDRAW
Filed: December 5, 2003	:	FROM RECORD
Attorney Docket No. ISPH-0803	:	

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 5, 2006.

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

A review of the file record indicates that on June 29, 2006 the power of attorney to was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Knobbe, Martens, Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine CA 92614

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SIDLEY AUSTIN LLP
717 NORTH HARWOOD, SUITE 3400
DALLAS, TX 75201

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OFFICE OF PETITIONS

In re Application of :
IKENOUE, Yoshikazu :
Application No. 10/728,541 : DECISION GRANTING PETITION
Filed: December 05, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **05058/16306** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 September 10, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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

8

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,543	12/04/2003	Yiping Hu	H0004326	8757

7590 06/01/2007
Honeywell International Inc.
101 Columbia Rd.
P. O. Box 2245
Morristown, NJ 07962-9806

EXAMINER
HITESHEW, FELISA CARLA

ART UNIT	PAPER NUMBER
1722	

MAIL DATE	DELIVERY MODE
06/01/2007	PAPER

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

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

In re application of:
Yiping Hu et al.
Serial No. 10/728,543
Filed: December 04, 2003
For: METHODS FOR REPAIR OF SINGLE CRYSTAL SUPERALLOYS BY LASER WELDING AND PRODUCTS THEREOF

DECISION ON PETITION

This is a decision on the PETITION TO ACCEPT FORMAL COLOR PHOTOGRAPHS UNDER 37 C.F.R. ∋ 1.84(b)(2), filed January 04, 2007 to permit color photographs since (1) the fee as required by 37 CFR 1.17(h) has been authorized, (2) three sets of the color photographs have been filed, (3) the specification includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation is provided stating why color photographs are necessary. The color photographs are for Figures 2, 3, and 4.
A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The petition is **GRANTED**.

Duane Smith
Supervisory Patent Examiner
Technology Center 1700

David K. Benson
Honeywell International Inc.
101 Columbia Rd.
P. O. Box 2245
Morristown NJ 07962-9806

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ALEXANDRIA, VA 22313-1450
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Paper No.

Diane Dunn McKay, Esq.
Mathews, Collins, Shepherd & McKay, P.A.
Suite 306
100 Thanet Circle
Princeton, NJ 08540

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OFFICE OF PETITIONS

In re Application of Carol Buck Application No. 10/728,546 Filed: December 5, 2003 Attorney Docket No. 3607-106.4 US	: : : : :	DECISION ON PETITION

This is in response to the "PETITION TO REINSTATE FILING DATE," filed February 13, 2004, which in essence, requests that the above-identified application be accorded a filing date without drawings present in the application.

Application papers in the above-identified application were filed on December 5, 2003. However, on January 26, 2004, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings. This Notice set a two-month period for reply.

In response, applicant timely filed the instant petition, asserting that:

> Drawings are not necessary for understanding of the subject matter sought to be patented. The references to drawings in the above-identified application are related to embodiments of the invention previously patented in U.S. Patent No. 6,517,822 and are not related to the invention defined by the present claims.

The petition included the required petition fee of $130 pursuant to § 1.17(h). Accompanying the petition was a preliminary amendment cancelling references to drawings in the application.

35 U.S.C. 111(a)(4) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, it is the practice of the Office 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). MPEP §601.01(f)[1].

A review of the original application papers filed December 5, 2003, reveals that they included a specification and at least one method claim. Thus, this application should have been treated as one which does not require drawings. Furthermore, petitioner confirms that drawings are not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). It is concluded that the instant application is entitled to a filing date of December 5, 2003.

Accordingly, the petition is **granted** to the extent that the application will be accorded the December 5, 2003 filing date with no drawings as a part of the original disclosure of the application.

However, in regards to withdrawing the Notice and refunding the petition fee, MPEP § 601.01(f) also states that:

> ...a nonprovisional application having at least some disclosure, directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

As the specification contained references to drawing figures, mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." Nonetheless, the filing of a petition was necessary due to the condition of the application on filing. Accordingly, the petition fee is required and will not be refunded.

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[1] Petitioner is advised that in a situation in which the appropriate examining group later determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the PTO.

This application is being forwarded to the Office of Initial Patent Examination for further processing **with a filing date of December 5, 2003** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Telephone inquiries specific to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Morrison & Foerster, LLP
12531 Hight Bluff Drive
Suite 100
San Diego, CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
Tae-Ahn Jahng	:	
Application No. 10/728,566	:	DECISION ON PETITION
Filed: December 5, 2003	:	TO WITHDRAW
Attorney Docket No. 001227/1363	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 2008.

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

A review of the file record indicates that the power of attorney to Richard C. Kim and all attorneys/agents has been revoked by the assignee of the patent application on January 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

A non-final rejection was mailed on February 4, 2008. Failure to timely respond will result in the abandonment of this application.

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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Stroock & Stroock & Lavan, LLP
180 Maiden Lane
New York, NY 10038

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P.O. BOX 1450
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MARGER JOHNSON & McCOLLOM, P.C.
1030 S.W. Morrison Street
Portland OR 97205

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NOV 1 0 2004

OFFICE OF PETITIONS

Applicant: Westerman
Appl. No.: 10/728,567
Filing Date: December 5, 2003
Title: EFFICIENT TRANSMISSION OF QUARTER-VGA IMAGES USING DVC CODECS
Attorney Docket No.: 8371-165
Pub. No.: US 2004/0086187 A1
Pub. Date: May 6, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on June 14, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the title of the invention is listed as "EFFICIENT TRANSMISSION OF QUARTER-VGA IMAGES USING DVC CODES" and not as "EFFICIENT TRANSMISSION OF QUARTER-VGA IMAGES USING DVC CODECS."

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." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office.

The typographical error on the front page of the patent application publication, wherein "CODECS" is misspelled as "CODES" is an Office mistake, but it is not a material error under 37 CFR 1.221(b). The mistake is a minor typographical error. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional

[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).

rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

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

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

PETITION DECISION

04/12/04

David A Hall
Heller, Ehrman, White & McAuliffe LLP
4350 La Jolla Village Drive, Suite 600
San Diego, CA 92122-1246

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/728570 received on 02/05/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES 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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JUN 23 2006

OFFICE OF PETITIONS

HELLER EHRMAN, LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

In re Application of	:	
Riedel, et. al.	:	DECISION ON REQUEST
Application No. 10/728,570	:	TO WITHDRAW FROM
Filed: December 5, 2003	:	RECORD
Attorney Docket No. 18021-6226	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on March 16, 2006.

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, "instructions from the assignee to transfer this application to new counsel", does not meet any of the conditions set forth in 37 CFR 10.40.

Further, it is noted that Alan C. Gordon signed the request on behalf of all attorneys/agents associated with Customer No. 33123. However, David A. Hall, Stephanie Seidman and Dale L. Rieger currently have power of attorney in this application, but are not listed as attorneys/agents under Customer No. 33123. Since they were omitted, it is unclear whether or not the individuals listed above should be withdrawn or retain power.

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 Andrea Smith at (571) 272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: David A. Hall
Townsend and Townsend and Crew, LLP
12730 High Bluff Drive – Suite 400
San Diego, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JAN 03 2007

OFFICE OF PETITIONS

In re Application of

Ian Zenoni
Application No. 10/728,572
Filed: December 5, 2003
Attorney Docket No. 577172003100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2006.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Marc Kaufman, Esq.**
Nixon Peabody, LLP
401 9th Street, N.W., Suite 900
Washington DC 20004

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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AUG 0 1 2007

OFFICE OF PETITIONS

OPTV/MOFO
c/o Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22102

In re Application of

Ian Zenoni
Application No. 10/728,572
Filed: December 5, 2003
Attorney Docket No. 577172003100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Adam Keser on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ian Zenoni**
759 E. Redwood Court
Highlands Ranch, CO 80126

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street N.W., Suite 900
Washington DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/728,572	12/05/2003	Ian Zenoni	577172003100

CONFIRMATION NO. 8936

OC000000025125866

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

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

Jerri Williams

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Seok-Kyu Lee	: DECISION ON REQUEST FOR
Patent Number	: 7570491	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/728,591	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **868** 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

NAGOYA INTERNATIONAL PATENT FIRM
MEISHIN BUILDING 2F
20-19 NISHIKI 1-CHOME, NAKA-KU
NAGOYA 460-0-003 JP JAPAN

MAILED
APR 23 2010
OFFICE OF PETITIONS

In re Patent No. 7,061,473	:	
Issue Date: June 13, 2006	:	
Application No. 10/728,596	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. PAT-1-US-DIV3	:	

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 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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Stephen M. Komarec
The Kinney & Lange Building
312 South Third Street
Minneapolis, MN 55415-1002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD NH 03301

MAILED

APR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,274,480	:	
Issue Date: September 25, 2007	:	
Application No. 10/728,597	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. ADACHI P192USD5	:	

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 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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Stephen M. Komarec
The Kinney & Lange Building
312 South Third Street
Minneapolis, MN 55415-1002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FRANK EDUGHOM EKPAR
UNIVERSITY OF AIZU FACULTY HOUSING A-107
MATSUNAGA 1-17-26
IKKI-MACHI
AIZU-WAKAMATSU CITY 965-0-001
JAPAN

COPY MAILED

DEC 10 2008

In re Application of Ekpar :
Application No. 10/728,609 :
Filing Date: December 3, 2003 :
For: Method and Apparatus for Creating :
Interactive Virtual Tours :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed July 22, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

On April 24, 2007, petitioner filed an amendment in response to a non-final Office action.

Office PALM (a computer program) records indicate a Notice of Informal or Non-Responsive Amendment was mailed May 10, 2007.

The Office did not receive a reply to the May 10, 2007 Notice.

On January 2, 2008, the Office mailed a Notice of Abandonment stating the application was abandoned because the Office never received a reply to the May 10, 2007 Notice.

Petitioner contends the May 10, 2007 Notice was never received.

In the *absence of any irregularity* in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. The Office need not determine if the evidence supplied is sufficient to overcome such a presumption because the record does indicate an irregularity in the processing and/or mailing of the May 10, 2007. Specifically, the Electronic Image File Wrapper, which is the official record for the application, does not contain a copy of the May 10, 2007 Notice which indicates the Notice may not have been mailed. In addition, since the Notice is not in the file, the Office is unable to verify the Notice, if mailed, was mailed to the correct address.

For the preceding reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2622 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff or the examiner will mail a new copy of the Notice of Informal or Non-Responsive Amendment originally "mailed" on May 10, 2007. The time period for responding to the new Notice will be set to run from the mailing date of the new Notice.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/09

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10728628 Patent No.: 7478895 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/09

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10728628 Patent No.: 7478895 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/17/2010

Applicant	: Perry H. Wang	: DECISION ON REQUEST FOR
Patent Number	: 7631307	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/728,649	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1394** 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

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

MAILED
APR 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Li	:	
Application No. 10/728,657	:	ON APPLICATION FOR
Filed: December 5, 2003	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 2060/31	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b) filed January 6, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand seventy (1070) days, not eight hundred ten (810) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the 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 such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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 two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	
	:	
Barin HASKELL et al.	:	Attorney Ref.: 112298-CON-1
	:	
Serial No.: 10/728,658	:	
Patent No.: 7,356,081	:	
	:	
Filed: December 6, 2003	:	
Issued: April 8, 2008	:	

FOR: IMPROVED BIDIRECTIONALLY PREDICTED PICTURES OR VIDEO OBJECT PLANES FOR EFFICIENT AND FLEXIBLE VIDEO CODING

REQUEST FOR CERTIFICATE OF CORRECTION

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK TO ENTER: /GP/

02/26/2009

Dear Sir:

Applicant requests that a Certificate of Correction be issued correcting the following error: the claims were amended in the Preliminary Amendment on July 26, 2006, because of a clerical error, the changes in the Preliminary Amendment (changing the word "received" to "derived") were removed in the response filed October 24, 2007. This error was Applicants' mistake and this certificate of Correction brings the claims back into alignment with the already entered Preliminary Amendment. Applicants request entry of this certificate of correction for two reasons. First, Applicants submit that it is clear from reviewing the Preliminary Amendment and the October 24, 2007 response that the error was clerical or typographical in nature and of a minor character. Second, Applicants submit that the error does not involve changes that constitute new matter or require reexamination as shall be shown next.

The second point above is easily demonstrated by the fact that the Statement of Reasons for Allowance mailed October 7, 2007 states that the claims are allowable because the prior art fails to teach:

> "a motion vector associated with a future block of temporally next reference VOP, the future block spatially coincident with an intermediate block in a derived B-VOP; a temporally next reference VOP used by a decoder to: determine a first predicting block using a forward scaling of the derived motion vector; determine a second predicting block in the temporally next reference VOP using a backward scaling of the received derived motion vector; and ...." Notice of Allowability, mailed 11/14/2007, page 2 (emphasis added).

Therefore, clearly, the Examiner allowed the claims at least in part due to the limitation regarding the "derived" motion vector as in the Preliminary Amendment and as corrected in this Notice of Correction. Therefore, Applicants submit that bringing the claim language into alignment with the Statement of Reasons for Allowance does not constitute new matter or require reexamination thus satisfying the required criteria for entry of the Certificate of Correction. MPEP 1481.

Several other minor punctuation corrections are made in this Certificate of Correction as well that also comply with the requirements of MPEP 1481. Therefore, Applicants respectfully request entry of this Certificate of Correction.

CONCLUSION

Payment for the $130 fee for the Certificate of Correction is being paid on-line by credit card. The Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Deposit Account No. 141437,** for any deficiency or overpayment.

Respectfully submitted,

Date: May 15, 2008

By: _____

Thomas M. Isaacson
Attorney for Applicant
Reg. No. 44,166
Phone: 410-286-9405
Fax No.: 410-510-1433

Correspondence Address:
Thomas A. Restaino
Reg. No. 33,444
AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

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
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,081

APPLICATION NO.: 10/728,658

ISSUE DATE : April 8, 2008

INVENTOR(S) : Haskell 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 14, line 19, replace the word " received" with the word --derived--
Column 14, line 24, replace the word " received" with the word --derived--
Column 14, line 27, replace the word " received" with the word --derived--
Column 14, line 30, replace the word " received" with the word --derived--
Column 14, line 42, replace the word " received" with the word --derived--
Column 14, line 42, replace " ; " with -- , --
Column 14, line 43, replace the word " received" with the word --derived--
Column 14, line 56, replace the word " received" with the word --derived--
Column 14, line 56, replace " ; " with -- , --
Column 14, line 57, replace the word " received" with the word --derived--
Column 15, line 4, replace the word " receive" with the word --derive--
Column 15, line 9, replace the word " received" with the word --derived--
Column 15, line 13, replace the word " received" with the word --derived--
Column 15, line 27, replace the word " received" with the word --derived--
Column 15, line 28, replace the word " received" with the word --derived--
Column 15, line 43, replace the word " received" with the word --derived--
Column 15, line 44, replace the word " received" with the word --derive--
Column 15, line 54, replace the word " decode" with the word --derived--
Column 15, line 61, replace the word " received" with the word --derived--
Column 15, line 64, replace the word " received" with the word --derived--
Column 16, line 10, replace the word " received" with the word --derived--
Column 16, line 11, replace the word " received" with the word --derived--
Column 16, line 25, replace the word " received" with the word --derived--
Column 16, line 26, replace the word " received" with the word --derived--
Column 17, line 14, replace the word " received" with the word --derived--
Column 17, line 22, replace the word " received" with the word --derived--
Column 17, line 39, replace the word " received" with the word --derived--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

AT&T Corp.
One AT&T Way - Room 2A207
Bedminster, NJ 07921

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.

PTO/SB/44 (04-05)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,081

APPLICATION NO.: 10/728,658

ISSUE DATE : April 8, 2008

INVENTOR(S) : Haskell 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 17, line 44, replace the word " received" with the word --derived--
Column 17, line 51, replace the word " received" with the word --derived--
Column 17, line 53, replace the word " received" with the word --derived--
Column 17, line 57, replace the word " received" with the word --derived--
Column 17, line 62, replace the word " received" with the word --derived--
Column 18, line 1, replace the word " received" with the word --derived--
Column 18, line 20, replace the word " received" with the word --derived--
Column 18, line 30, replace the word " received" with the word --derived--
Column 18, line 45, replace the word " received" with the word --derived--
Column 18, line 46, the formula reading "MVF=(TRBxMV/TRD+MVD"
should read --MVF=(TRBxMV)TRD+MVD--
Column 18, line 51, replace the word " received" with the word --derived--
Column 18, line 58, replace the word " received" with the word --derived--
Column 18, line 59, replace the word " received" with the word --derived--
Column 18, line 63, replace the word " received" with the word --derived--
Column 19, line 1, replace the word " received" with the word --derived--
Column 19, line 6, replace the word " received" with the word --derived--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

AT&T Corp.
One AT&T Way - Room 2A207
Bedminster, NJ 07921

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090226

DATE : June 20, 2008

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 7356081 B1

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

The Request for the Certificates of Correction filed on May 15, 2008 and September 23, 2008 has been approved by the Examiner.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	
	:	
Barin HASKELL et al.	:	Attorney Ref.: 112298-CON-1
	:	
Serial No.: 10/728,658	:	
Patent No.: 7,356,081	:	
	:	
Filed: December 6, 2003	:	
Issued: April 8, 2008	:	

FOR: IMPROVED BIDIRECTIONALLY PREDICTED PICTURES OR VIDEO OBJECT PLANES FOR EFFICIENT AND FLEXIBLE VIDEO CODING

REQUEST FOR CERTIFICATE OF CORRECTION

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK TO ENTER: /GP/

02/26/2009

Dear Sir:

Applicants request that a Certificate of Correction be issued correcting the following typographical errors: Column 15, line 54, replace the word "decode" with the word --derive--; and column 18, line 46, the formula reading "MVF=(TRBxMV/TRD+MVD" should read --MVF=(TRBxMV)/TRD+MVD--. These typographical errors are Applicants fault. This corrects the Letters Patent as well as errors in the Certificate of Correction dated May 15, 2008.

CONCLUSION

Payment for the $100 fee for the Certificate of Correction is being paid on-line by credit card. The Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Deposit Account No. 141437,** for any deficiency or overpayment.

Respectfully submitted,

Date: September 23, 2008

By: _____

Thomas M. Isaacson
Attorney for Patentees
Reg. No. 44,166
Phone: 410-286-9405
Fax No.: 410-510-1433

Correspondence Address:
Thomas A. Restaino
Reg. No. 33,444
AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

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. : 7,356,081

APPLICATION NO.: 10/728,658

ISSUE DATE : April 8, 2008

INVENTOR(S) : Haskell 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 15, line 54, replace the word "decode" with the word --derive--

Column 18, line 46, the formula reading "MVF=(TRBxMV/TRD+MVD"
should read --MVF=(TRBxMV)/TRD+MVD--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

AT&T Corp.
One AT&T Way - Room 2A207
Bedminster, NJ 07921

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SEP 23 2004

In re Application of	:	
Thomas von Ronn et al.	:	
Serial No. 10/728,667	:	DECISION ON PETITION
Filed: December 8, 2003	:	TO MAKE SPECIAL
For: DISPENSING DEVICE	:	

Applicant's petition, filed December 8, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Thomas C. Hughes
Kenyon and Kenyon
One Broadway
New York, NY 10004

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.
10/728,708	12/05/2003	Steven R. Carr	200313119-1	9957

7590 07/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
SYED, FARHAN M

ART UNIT	PAPER NUMBER
2165	

NOTIFICATION DATE	DELIVERY MODE
07/21/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

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Adjustment date: 07/18/2008  KKING1
12/10/2003 WABDELR1 00000033 082025   10728708
02 FC:1201        258.00 CR
03 FC:1202        180.00 CR
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FORM PET651G (Rev. 08/07)

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard L. Myers
Myers, Dawes, Andras & Sherman LLP
Suite 1150
19900 MacArthur Blvd
Irvine, CA 92612

MAILED

DEC 06 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of:
Eric Erza Youngberg
Serial No. 10/728,709
Filed: December 5, 2003
For: WATER HEATER SECURITY SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed July 29, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed July 29, 2004 includes all of the requirements above and, therefore, 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.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kjd:12/2/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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AUG 10 2007

OFFICE OF PETITIONS

In re Application of	:	
ELLIOTT	:	
Application No.: 10/728,714	:	DECISION ON PETITION
Filing Date: December 4, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: LGEL-1-1003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 23, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 24, 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 payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

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

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

Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/26/2010

Applicant	: Konstantinos Tsougarakis	: DECISION ON REQUEST FOR
Patent Number	: 7634119	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/728,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1500** 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

GOODWIN PROCIER LLP (ATTN: D. GERROD)
599 LEXINGTON AVENUE
NEW YORK, NY 10022

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SEP 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Bernardin et al.	:	
Application No. 10/728,732	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. D0305-013	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 1, 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 (which was previously submitted on March 7, 2006); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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AUG 0 6 2008

OFFICE OF PETITIONS

TELEZYGOLOGY, INC.
520 W. ERIE STREET, SUITE 210
CHICAGO, IL 60654

In re Application of	:	
Kudrna et al.	:	
Application No. 10/728,741	:	DECISION ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. PA047	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of August 22, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 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 a Notice of Appeal with $255 fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Grant H. Peters appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Additionally, 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 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 additional to receiving a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37CFR 1.137(b), the United States Patent and Trademark Office received a payment of $525 for a three month extension of time on May 22, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3734 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Gary H. Peters
Barnes & Thornburg LLP.
PO Box 2786
Chicago, IL 60690-2786

UNITED STATES 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.

JACOBSON, PRICE, HOLMAN & STERN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 Seventh Street, N.W.
Washington DC 20004

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Hans Hundegger	:	
Application No. 10/728,773	:	DECISION ON PETITION
Filed: December 8, 2003	:	PURSUANT TO
Attorney Docket No.: P69351US0	:	37 C.F.R. § 1.181(A)
Title: METHOD AND MACHINING	:	
INSTALLATION FOR THE MACHINING	:	
OF WOOD WORKPIECES	:	

This is a decision on the petition filed March 10, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 22, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on December 23, 2008. A Notice of Abandonment was mailed on January 15, 2009.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> 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 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).
>
> 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).
>
> (Emphases added).

ANALYSIS

With this petition, Petitioner has stated that the notice of September 22, 2008 was not received at the correspondence address of record,[3] and has included a copy of the individual docket record for this application as well as the master docket.

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3 Petition, pages 1-2, paragraph 2.

Petitioner has further indicated that he "searched in all of the applicable places at his law office"[4] and has suggested that he reviewed the file jacket.[5] The Office will construe these statements to mean that both the file jacket and the application contents were reviewed, and **Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.**

Petitioner's assertion of non-receipt has not been adequately supported, as the statement that Petitioner has included describing the system used for recording an Office action received at the correspondence address of record with the USPTO is **insufficient to either describe the operation of the docketing system or establish the reliability of the same.**

Petitioner has indicated that he "uses Computer Packages Inc (CPI) docketing system," and that when a communication is received from the Office, members of his "docketing department" docket the communication "with the mail date, due date, and call ups."[6]

The docketing system appears to be a computer-based system. **Does this computer-based docketing software program generate reports that are distributed to the responsible attorneys/agents?**

Moreover, the record does not contain an indication of how these "call ups" serve to ensure that docketed Office communications are responded to in a timely manner. **Are these "call ups" essentially periodic reminders that are generated by the docketing system prior to the due dates of docketed Office communications? If so, are these reminders distributed to the responsible attorneys/agents?**

Similarly, **is the master docket reviewed on a periodic basis to ensure that all entries that appear thereon have been responded to in a timely manner?**

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be

4 Petition, page 1, paragraph 2.
5 Id. at page 2, paragraph 5.
6 Id. at page 2, paragraph 3.

submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile.[9] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[11] All other inquiries concerning examination procedures or status of this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
9 (571) 273-8300- please note this is a central facsimile number.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
11 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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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.

JACOBSON, PRICE, HOLMAN & STERN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 Seventh Street, N.W.
Washington DC 20004

COPY MAILED

DEC 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Hans Hundegger	:	
Application No. 10/728,773	:	DECISION ON RENEWED PETITION
Filed: December 8, 2003	:	PURSUANT TO
Attorney Docket No.: P69351US0	:	37 C.F.R. § 1.181(A)
Title: METHOD AND MACHINING	:	
INSTALLATION FOR THE MACHINING	:	
OF WOOD WORKPIECES	:	

This is a decision on the renewed petition filed May 26, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 22, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on December 23, 2008. A Notice of Abandonment was mailed on January 15, 2009.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 10, 2009, where Petitioner stated that the notice of September 22, 2008 was not received at the correspondence address of record,[3] and included a copy of the individual docket record for this application as well as the master docket. Petitioner further indicated that he "searched in all of the applicable places at his law office"[4] and has suggested that he reviewed the file jacket.[5] Petitioner further indicated that he "uses Computer Packages Inc (CPI) docketing system," and that when a communication is received from the Office, members of his "docketing department" docket the communication "with the mail date, due date, and call ups."[6]

The original petition was dismissed via the mailing of a decision on March 30, 2009.

With this renewed petition, Petitioner has provided a description of the system used for recording an Office action received at the correspondence address of record with the USPTO that is sufficient to both describe the operation of the docketing system and establish the reliability of the same. The electronic record shows that the computer-based docketing system generates weekly reports that are distributed to the responsible attorney,[7] that the aforementioned call ups serve as periodic reminders to both the responsible attorney and his secretary,[8] and that the master docket is reviewed on a daily basis.[9]

CONCLUSION

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 Notice of Allowance and Issue Fee Due of September 22, 2008 was not received.

Accordingly, this second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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3 Original petition, pages 1-2, paragraph 2.
4 Original Petition, page 1, paragraph 2.
5 Id. at page 2, paragraph 5. On the first page of this renewed petition, Petitioner has clarified that both the file jacket and the application contents were reviewed.
6 Original petition, page 2, paragraph 3.
7 Renewed petition, pages 1-2.
8 Id. at 3.
9 Id. at 3-4.

It is noted that the issue and publication fees, along with form PTOL-85b were submitted concurrently with the original petition on March 10, 2009.

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[10] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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10 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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JACOBSON, PRICE, HOLMAN & STERN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 Seventh Street, N.W.
Washington, DC 20004

Mail Date: 04/21/2010

Applicant	: Hans Hundegger	: DECISION ON REQUEST FOR
Patent Number	: 7661451	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/728,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **409** 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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SILVERBROOK RESEARCH PTY
LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU
AUSTRALIA

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OFFICE OF PETITIONS

In re Application of

Kia Silverbrook :

Application No. 10/728,783

: DECISION ON PETITION

Filed: December 8, 2003

:

Attorney Docket No. MTB09US

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 above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed October 14, 2005, which set a shortened statutory period for reply of one month from its mailing date. A reply was filed on January 12, 2006, but was not accompanied by the proper request for an extension of time. The application became abandoned on December 15, 2005. A Notice of Abandonment was mailed on June 12, 2006.

The response filed January 12, 2006, will be considered as the reply required by 37 CFR 1.137(b).

The application is being forwarded to Technology Center 2800, GAU 2861 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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/728783	:	DECISION ON PETITION
Filing or 371(c) Date: 12/08/2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MTB09US	:	

This is a decision on the "Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 120," filed January 2, 2008.

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 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 2861 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/728,783	12/08/2003	2861	1372	MTB09US	32	4

CONFIRMATION NO. 1040

CORRECTED FILING RECEIPT

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

OC000000029134385

Date Mailed: 03/27/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;

Assignment For Published Patent Application

Silverbrook Research Pty Ltd

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/307,330 12/02/2002 PAT 6,666,544
which is a CON of 10/120,439 04/12/2002 PAT 6,536,874

Foreign Applications

If Required, Foreign Filing License Granted: 01/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/728,783**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INKJET PRINTHEAD WITH NON-UNIFORM WIDTH INK SUPPLY PASSAGE TO NOZZLE

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/728,784	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. MTB08US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Missing Parts of Non-Provisional Application mailed January 20, 2004. Accordingly, a Notice of Abandonment was mailed on May 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 $200 for one (1) independent claim over 3; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 23, 2006

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No. : 10/728800 Patent No.: 6,977,189

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: _____

SPE

2813

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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MAY 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	ON PETITION
Application No. 10/728,803	:	
Filed: December 8, 2003	:	
Attorney Docket No. MTB12US	:	

This is a decision on the petition filed May 3, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment of 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 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on November 24, 2006, for failure to file a timely response to the Final Office Action mailed August 22, 2006, which set a three (3)-month statutory period for reply. Accordingly, a Notice of Abandonment was mailed March 30, 2007.

Petitioner contends that a response to the August 22, 2006 Final Office Action was timely filed on October 30, 2007 (after the mailing of an Advisory Action on October 13, 2006). A copy of a Request for Continued Examination (RCE) without a certificate of mail and a check in the amount of $790 is included with the petition. Additionally, the instant petition references a postcard receipt however, no such postcard receipt is included with the papers filed on May 3, 2007 with the petition.

Unfortunately, neither a certificate of mail pursuant to 37 CFR 1.8[1], or a postcard

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[1] 37 CFR 1.8(b) states that 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 by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding 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 Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

receipt pursuant to MPEP 503[2] was used and either would have been accepted as proof of filing.

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a response was filed to the Final Office Action on October 30, 2006 and since the proof submitted does not substantiate a finding that the response was received and perhaps through error of the USPTO not now of record, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). 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) ($675.00);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire

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[2]The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
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JUN 22 2007

OFFICE OF PETITIONS

In re Application of
Kia Silverbrook
Application No. 10/728,803
Filed: December 8, 2003
Attorney Docket No. MTB12US

ON PETITION

This is a decision on the renewed petition filed June 14, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

The above-referenced application was held abandoned on November 24, 2006, for failure to file a timely response to the Final Office Action mailed August 22, 2006, which set a three (3)-month statutory period for reply. Accordingly, a Notice of Abandonment was mailed March 30, 2007. A petition filed May 3, 2007 was dismissed in a decision mailed May 24, 2007 because while petitioner claimed that a response in the form of a Request for Continued Examination (RCE) had been timely filed on October 30, 2007 (after the mailing of an Advisory Action on October 13, 2006), the file record did not reveal that a response had been filed and neither did petitioner provide any corroborating evidence of that fact.

With the instant renewed petition, pursuant to MPEP 503[1], petitioner has included a postcard receipt date stamped by the USPTO on October 30, 2006 itemized and showing that the RCE was timely filed.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 2853 for processing of the RCE filed

[1]The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

October 30, 2006, a copy of which was filed with the May 3, 2007 petition and the previously filed amendment as the submission under 37 CFR 1.114.

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
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.
10/728,814	12/08/2003	Jess Koehler	Q78708	9247

23373 7590 03/08/2006
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
SUGARMAN, SCOTT J

ART UNIT	PAPER NUMBER
2873	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

02282006

MAR 0 8 2006

In re Application of KOEHLER
Appl. No.: 10/728,814
Filed: December 8, 2003
For: OPTICAL SYSTEM FOR PROVIDING A USEFUL LIGHT BEAM INFLUENCED BY POLARIZATION

DECISION ON PETITION UNDER 37 C.F.R. § 1.59

This is a decision on the petition under 37 C.F.R. §1.59(b), filed November 4, 2005, to expunge proprietary information from the above-identified application.

The petition is GRANTED.

Petitioner requests that the proprietary information submitted on December 30, 2004, pursuant to MPEP § 724, be expunged from the record. Petitioner states that the Proprietary Information Disclosure Statement contains proprietary information of the assignee which has not been publicly disclosed. The petition is accompanied by a check of $130.00 covering the petition fee set forth in 37 CFR 1.17(I).

The information in question has been determined by the examiner to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material is returned herewith.

Janice A. Falcone

Janice A. Falcone, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Washington Square, Suite 1100
1050 Connecticut Avenue, NW
Washington, DC 20036

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of	:
Luntz and Rose	: DECISION ON PETITION
Application No. 10/728,832	:
Filed: December 8, 2003	:
Attorney Docket No. 27056.2640	:

This is in response to the petition under 37 CFR 1.47(a), filed June 9, 2004. Applicants obtained a one-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).

The above-identified application was filed on December 8, 2003, with a declaration without all of the inventors' signatures. Accordingly, on March 9, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring the signatures of Matt Luntz. Additionally, the Notice to File Missing Parts indicated that a new oath or declaration was required, which identified the residence and citizenship of each inventor.

In response, on June 9, 2004, applicants filed the present petition, a request for a one-month extension of time to reply, and an authorization to charge any additional 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 item (2) 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. The declaration does not identify Mr. Luntz's residence, mailing address or country of 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 correct mailing address and citizenship of each inventor, and is signed by Mr. Rose on behalf of the nonsigning inventor, Mr. Luntz.

The $130.00 petition fee will be charged to Deposit Account No. 50-2036, as authorized. The Office finance records indicate that applicants paid a two-month extension of time fee. The $310.00 fee is not necessary and will be refunded to applicants' Deposit Account.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, NW
Washington, DC 20036

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JUL 13 2004
OFFICE OF PETITIONS

In re Application of
Luntz and Rose
Application No. 10/728,832
Filed: December 8, 2003
Attorney Docket No. 27056.2640

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed June 9, 2004. Applicants obtained a one-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).

The above-identified application was filed on December 8, 2003, with a declaration without all of the inventors' signatures. Accordingly, on March 9, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring the signatures of Matt Luntz. Additionally, the Notice to File Missing Parts indicated that a new oath or declaration was required, which identified the residence and citizenship of each inventor.

027056.2640

Request for Reconsideration due 9-13-04.

RECEIVED
JUL 15 2004
93K

ENTERED IN CP

In response, on June 9, 2004, applicants filed the present petition, a request for a one-month extension of time to reply, and an authorization to charge any additional 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 item (2) 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. The declaration does not identify Mr. Luntz's residence, mailing address or country of 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 correct mailing address and citizenship of each inventor, and is signed by Mr. Rose on behalf of the nonsigning inventor, Mr. Luntz.

The $130.00 petition fee will be charged to Deposit Account No. 50-2036, as authorized. The Office finance records indicate that applicants paid a two-month extension of time fee. The $310.00 fee is not necessary and will be refunded to applicants' Deposit Account.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, NW
Washington, DC 20036

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JUL 1 3 2004
OFFICE OF PETITIONS

In re Application of :
Luntz and Rose : DECISION ON PETITION
Application No. 10/728,832 :
Filed: December 8, 2003 :
Attorney Docket No. 27056.2640 :

This is in response to the petition under 37 CFR 1.47(a), filed June 9, 2004. Applicants obtained a one-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).

The above-identified application was filed on December 8, 2003, with a declaration without all of the inventors' signatures. Accordingly, on March 9, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring the signatures of Matt Luntz. Additionally, the Notice to File Missing Parts indicated that a new oath or declaration was required, which identified the residence and citizenship of each inventor.

027056.2640

Request for Reconsideration due 9-13-04.

ENTERED IN CP

RECEIVED
JUL 1 5 2004
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Docketed

In response, on June 9, 2004, applicants filed the present petition, a request for a one-month extension of time to reply, and an authorization to charge any additional 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 item (2) 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. The declaration does not identify Mr. Luntz's residence, mailing address or country of 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 correct mailing address and citizenship of each inventor, and is signed by Mr. Rose on behalf of the nonsigning inventor, Mr. Luntz.

The $130.00 petition fee will be charged to Deposit Account No. 50-2036, as authorized. The Office finance records indicate that applicants paid a two-month extension of time fee. The $310.00 fee is not necessary and will be refunded to applicants' Deposit Account.

Further correspondence with respect to this matter should be addressed as follows and to the attention of Christina Tartera Donnell, Senior Petitions Attorney:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, NW
Washington, DC 20036

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MAY 19 2006
OFFICE OF PETITIONS

In re Application of	:
Luntz and Rose	: DECISION ACCORDING STATUS
Application No. 10/728,832	: UNDER 37 CFR 1.47(a)
Filed: December 8, 2003	:
Attorney Docket No. 27056.2640	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 23, 2004. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The petition is **GRANTED.**

Applicants showed that the non-signing inventor refused to join in the filing of the above-identified application after applicants presented him with a copy of 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 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office finance records indicate that the USPTO did not charge applicants' Deposit Account for the $130.00 fee for filing the original petition on June 30, 2004. Therefore, the $130.00 fee will be charged to Deposit Account No. 50-2036.

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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Matt Luntz
10439 North Edinburg Rd.
Highland, UT 84003

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OFFICE OF PETITIONS

In re Application of	:	
Luntz and Rose	:	
Application No. 10/728,832	:	LETTER
Filed: December 8, 2003	:	
Attorney Docket No. 27056.2640	:	

Dear Mr. Luntz:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, NW
Washington, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Luntz and Rose :
Application No. 10/728,832 :
Filed: December 8, 2003 :
Attorney Docket No. 27056.2640 :

DECISION ON PETITIONS

This is in response to the petition under 37 CFR 1.137(b), filed June 9, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

On March 9, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, indicating that the declaration did not identify the residence and the citizenship of each inventor, and was not signed by inventor Luntz. The Notice to File Missing Parts set a two-month extendable period to reply. On June 9, 2004, applicants filed a timely petition under 37 CFR 1.47(a), accompanied by a request for an extension of time within the first month (including a general authorization to charge fees), and a declaration identifying the residence and citizenship of joint inventor Rose. On June 23, 2004, the Office mailed a Notice of Incomplete Reply, stating that the reply of June 9, 2004, was incomplete because the declaration was missing the signature, residence, and citizenship of inventor Luntz, and that no surcharge for the late filing was received.

On June 30, 2004, applicants filed a second petition under 37 CFR 1.47(a), a request for an extension of time for response within the second month (including a general authorization to charge fees), and a declaration that identified the residence, mailing address, and citizenship of each inventor; however, the signature of inventor Luntz was missing. The petition was dismissed by the decision of July 13, 2004, which set a two-month extendable period for response. Furthermore, the decision indicated that the extension of time for response within the second month was unnecessary and the $ 310.00 fee was refunded.

On July 23, 2004, applicants filed a renewed petition under 37 CFR 1.47(a), which was granted by the decision of May 19, 2006. Nevertheless, on May 18, 2006, the Office mailed a Notice of Abandonment for failure to respond to the Notice to File Missing Parts. On June 9, 2006, applicants filed the present petition. In the present petition, applicants assert that the application is not

abandoned and request that the Office withdraw the holding of abandonment. Specifically, applicants aver that they timely filed a petition under 37 CFR 1.47(a), which was subsequently granted on May 19, 2006.

Upon a review of the record, applicants' assertion is correct. Applicants filed a timely and proper response to the Notice to File Missing Parts on June 9, 2004. Specifically, the payment of the surcharge, accompanied by either a properly signed oath or declaration in compliance with 37 CFR 1.63 **or** the filing of a petition under 37 CFR 1.47(a) and an oath or declaration in compliance with 37 CFR 1.63 signed by the available inventors are both appropriate responses to the Notice to File Missing Parts. Therefore, the Office should not have mailed the Notice of Incomplete Reply of June 23, 2004, or the Notice of Abandonment of May 18, 2006.

In view of the above, the petition to withdraw the holding of abandonment is **granted**. The application will be restored to pending status. No petition fee is required.

The Office of Initial Patent Examination has been advised of this decision granting the petition to withdraw the holding of abandonment. This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

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APR 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Kris Edward Hansen	:	DECISION ON PETITION
Application No. 10/728,841	:	TO WITHDRAW
Filed: December 8, 2003	:	FROM RECORD
Attorney Docket No. 005230.00007	:	

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 8, 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 Brian E. Hanlon, an attorney of record.

Brian E. Hanlon has been withdrawn as attorney or agent of record; the other attorneys remain of record.

This application is being referred to Technology Center AU 3632.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 22, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/728888 Patent No.: 7326256 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

HAROLD PYON
SUPERVISORY PATENT EXAMINER A.U. 1796

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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JUN 1 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Herman Kwong, et al.	:	
Application No. 10/728,894	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 57983.000155	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 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 February 6, 2007. The Notice of Abandonment was mailed July 3, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The proposed reply filed herewith does not place the application in condition for allowance. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (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 1114), or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosed: Copy of the Examiner's Advisory Action (PTOL-303)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/728,894	Applicant(s) KWONG ET AL.	
	Examiner HELEN ROSSOSHEK	Art Unit 2825	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09/05/2007 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: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Helen Rossoshek/
Primary Examiner
Art Unit: 2825

Continuation of 13. Other: In Amendment filed 09/05/2007 claims 1, 10 and 15 were amended including new issue, which changes the scope of claims. Therefore further consideration and additional search will be required. For reply see Petition decision.

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INTELLECTUAL PROPERTY DEPARTMENT
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SUITE 1200
WASHINGTON DC 20006-1109

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Herman Kwong, et al.	:	
Application No. 10/728,894	:	DECISION ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 57983.000155	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 3, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 4, 2007. The Notice of Abandonment was mailed July 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2825 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Chris Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

In re Application of
Kia Silverbrook, et al.
Application No. 10/728,924
Filed: December 8, 2003
Attorney Docket No. ZE006US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 17, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 10, 2006. A Notice of Abandonment was mailed on June 26, 2006. On July 17, 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 the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,935	12/08/2003	Kia Silverbrook	ZE017US	9658

24011 7590 05/19/2006

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

EXAMINER
STEPHENS, JUANITA DIONNE

ART UNIT	PAPER NUMBER
2853	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 19 2006

Paper No. 20060517

Appl No.: 10/728,935
Applicant: Silverbrook et al
Filed: December 8, 2003

DECISION ON PETITION UNDER *37 CFR 1.181* **on Finality of Office Action**

This is a decision on the "Petition under 37 CFR 1.181" filed August 29th, 2005.

Applicant has petitioned for a Notice of Allowance with respect to the claims filed on July 27th 2005 or alternatively a withdrawal of finality of the Office Action issued on July 11th, 2005. A Notice of Allowance is non-petitionable subject matter, which depends upon a determination by the Examiner during normal prosecution of the application. The finality of the Office Action issued on July 11th, 2005 is deemed to be proper. Further the finality of the Office action is moot in view of Applicant's subsequent Request for Continued Examination (RCE) filed on August 29th, 2005.

Applicant has also requested a refund of the fee for filing the RCE. This is interpreted as a request to withdraw the RCE along with its associated fee. Since there is no statement by the Applicant that the RCE was filed in error, the RCE will not be withdrawn. Further a petition of this nature should be filed under 37 CFR 1.183.

The petition is DENIED.

The application is being forwarded to the examiner for further action.

Arthur T. Grimley
Director
Group 2800

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HANIFY & KING PROFESSIONAL CORPORATION
1875 K STREET, NW
SUITE 707
WASHINGTON DC 20006

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JUN 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Nemoto et al.	:	
Application No. 10/728,938	:	DECISION ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 19546.0034	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 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 and Drawings, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050.00 extension of time fee submitted with the petition on My 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2619 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of	:
Takaharu Kawahara et al	:
Application No. 10/728,939	: DECISION GRANTING PETITION
Filed: December 8, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 246428US0CONT	:

This is a decision on the petition, filed January 29, 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 December 19, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Jan10\728939.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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JAMES C. WAY
1493 CHAIN BRIDGE ROAD
SUITE 300
MCLEAN, VA 22101

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FEB 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Larry D. Huffman	:	
Application No. 10/728,961	:	DECISION ON PETITION
Filed: December 8, 2003	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 18, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the petitioner was not appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LARRY D. HUFFMAN
239 HERITAGE HILL TRAIL
LOUISVILLE, KY 40223

UNITED STATES PATENT AND TRADEMARK OFFICE

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393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook :
Application No. 10/728,970 : ON PETITION
Filed: December 8, 2003 :
Attorney Docket No. **MTB07US** :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 23, 2006, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 8, 2003, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first page of the specification, 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 application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, 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 benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional 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 the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 2800, Art Unit 2861 for appropriate action on the amendment filed January 23, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/728,970	12/08/2003	2861	1058	MTB07US	34	36	3

CONFIRMATION NO. 9050

CORRECTED FILING RECEIPT

OC000000018742569

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 05/10/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;

Assignment For Published Patent Application

Silverbrook Research Pty Ltd

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/160,273 06/04/2002 PAT 6,746,105
which is a CON of 09/112,767 07/10/1998 PAT 6,416,167

Foreign Applications	Acceptable Request to Retrieve Priority Application Received?
AUSTRALIA PP2592 03/25/1998	NO
AUSTRALIA PO7991 07/15/1997	NO

If Required, Foreign Filing License Granted: 03/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/728,970

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ink jet printhead with amorphous ceramic chamber

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JEFFREY FURR
253 N. MAIN STREET
JOHNSTOWN, OH 43031

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SEP 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Ivan Carta	:	
Application No. 10/728,988	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 023853-00029	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 9, 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 January 13, 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

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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

ANTONELLI TERRY STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of	:
Young Kwon Lim et al	:
Application No. 10/729,021	: DECISION GRANTING PETITION
Filed: December 8, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 087.38292CX1	:

This is a decision on the petition, filed October 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 27, 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 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BECK & TYSVER
SUITE 100
2900 THOMAS AVENUE S.
MINNEAPOLIS, MN 55416

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MAY 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Kai Desinger et al	:	
Application No. 10/729,040	:	DECISION DISMISSING PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 3002	:	

This is a decision on the petition filed December 13, 2004, under 37 CFR 1.78(a)(3), which is also being treated as a petition under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application, and under 35 U.S.C. § 119 for the benefit of a prior-filed foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The amendment submitted with the instant petition improperly placed the claim for benefit to foreign Application No. DE 101 28 701.1, filed June 7, 2001, to be included with the domestic priority which is not in compliance with 37 CFR 1.63(c)(2). Therefore, the foreign application data should be included in a substitute declaration or a proper ADS in compliance with 37 CFR 1.76 as required.

A decision on the petition under 37 CFR 1.78(a)(3) will be held in abeyance pending a proper reply to the petition under 37 CFR 1.55(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DAVID J COLE
E INK CORPORATION
733 CONCORD AVE
CAMBRIDGE MA 02138-1002

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JUN 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,352,353	:
Issued: April 1, 2008	: DECISION ON APPLICATION FOR
Application No. 10/729,044	: and NOTICE OF INTENT TO ISSUE
Filed: December 5, 2003	: CERTIFICATE OF CORRECTION
Dkt. No.: INK-029C1	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed June 2, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is GRANTED IN PART and DISMISSED IN PART.

The above-identified application matured into U.S. Patent No. 7,352,353 on April 1, 2008. The instant request for reconsideration was timely filed. The patent issued with a PTA of 239 days. Patentees argue that the reduction of 55 days under 37 CFR 1.704(c)(10) in connection with the Request for Clarification of the Notice of Allowability filed October 2, 2007 is in error. Patentees further argue that the reduction of 120 days under 37 CFR 1.704(c)(10) in connection with the Notification of Missing Fee filed November 26, 2007 is also in error.

Patentee's arguments have been carefully considered.

The submission of a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability is not deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732. *See, also, Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance Has Been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). Thus, the reduction of 55 days is in error.

However, the submission of the Notification of Missing Fee is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10).

Patentees argue that patentees should not be penalized in patent term for attempting to remove from the record errors due to the Office. Patentees further argue that as there was no Office response to the Notification of Missing Fee, no delay should be charged.

Patentees' arguments have been carefully considered, but are not found convincing. In accordance with 37 CFR 1.704(c)(10), submission of amendment under § 1.312 or other paper after a notice of allowance has been given or mailed will result in a reduction of patent term. Upon issuance of a Notice of Allowance, applicants should consider waiting until after the patent issues before submitting a paper which will likely result in a reduction in patent term. As there was no response by the Office to the Notification of Missing Fee, the reduction of patent term is governed by 37 CFR 1.704(c)(10). Hence, the reduction of four months, or 120 days.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 294 days (adjustments totaling 483 days less reductions totaling 189 days).

The Office hereby acknowledges receipt of the required PTA application fee of $200.00.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 294 days.

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,352,353 B2
DATED	:	April 1, 2008
INVENTOR(S)	:	Albert, 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 239 days

Delete the phrase "by 239 days" and insert – by 294 days--

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 16:48:47

PTA Calculations for Application: 10/729044			
Application Filing Date:	12/05/2003	PTO Delay (PTO):	483
Issue Date of Patent:	04/01/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	244
Post-Issue Petitions:	0	Total PTA (days):	294
PTO Delay Adjustment:	55		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	55		
55.5	03/12/2008	PTA 36 MONTHS	41		
55	04/01/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	25		47
54	02/22/2008	EXPORT TO FINAL DATA CAPTURE			
53	02/21/2008	DISPATCH TO FDC			
51	10/02/2007	PUBS CASE REMAND TO TC			
50	11/26/2007	MISCELLANEOUS INCOMING LETTER		120	
49	11/09/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
48	10/02/2007	MISCELLANEOUS INCOMING LETTER		55	
47	11/07/2007	ISSUE FEE PAYMENT VERIFIED			
46	11/07/2007	ISSUE FEE PAYMENT RECEIVED			
45	09/20/2007	FINISHED INITIAL DATA CAPTURE			
44	08/20/2007	EXPORT TO INITIAL DATA CAPTURE			
43	08/09/2007	MAIL NOTICE OF ALLOWANCE			
42	08/07/2007	ISSUE REVISION COMPLETED			
41	08/06/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	08/06/2007	NOTICE OF ALLOWABILITY			
39	07/24/2007	DATE FORWARDED TO EXAMINER			
38	07/23/2007	APPEAL BRIEF FILED			
37	07/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	02/28/2007	NOTICE OF APPEAL FILED		28	34
35	02/28/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

34	10/31/2006	MAIL FINAL REJECTION (PTOL - 326)			
33	10/30/2006	FINAL REJECTION			
32	08/15/2006	DATE FORWARDED TO EXAMINER			
31	08/09/2006	RESPONSE AFTER NON-FINAL ACTION		41	29
30	08/09/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	03/29/2006	MAIL NON-FINAL REJECTION	417		-1
28	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	03/20/2006	NON-FINAL REJECTION			
26	12/05/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	01/26/2006	MISCELLANEOUS INCOMING LETTER			
24	10/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	05/24/2005	CORRESPONDENCE ADDRESS CHANGE			
22	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	07/14/2004	PRELIMINARY AMENDMENT			
20	07/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	04/08/2004	REFERENCE CAPTURE ON IDS			
18	04/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	04/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	12/05/2003	PRELIMINARY AMENDMENT			
15.7	12/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/09/2004	APPLICATION RETURN FROM OIPE			
13	03/09/2004	APPLICATION IS NOW COMPLETE			
12	03/09/2004	APPLICATION RETURN TO OIPE			
11	03/09/2004	APPLICATION RETURN FROM OIPE			
10	03/09/2004	APPLICATION RETURN TO OIPE			
9	03/08/2004	APPLICATION RETURN FROM OIPE			
8	03/08/2004	APPLICATION IS NOW COMPLETE			
7	03/08/2004	APPLICATION RETURN TO OIPE			
6	03/08/2004	APPLICATION DISPATCHED FROM OIPE			
5	03/08/2004	APPLICATION IS NOW COMPLETE			
4	02/11/2004	CLEARED BY OIPE CSR			
3	02/11/2004	CASE CLASSIFIED BY OIPE			
2	01/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	12/05/2003	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

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BLISS MCGLYNN, P.C.
SUITE 600
2075 WEST BIG BEAVER ROAD
TROY, MI 48084

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Robert Gerald Lipmyer :
Application No. 10/729,052 :
Filed: December 5, 2003 :
Attorney Docket No. 0603.00002 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 24, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on December 1, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 23, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
David J. Grainger et al.	:	
Application No. 10/729,056	:	DECISION ON PETITION
Filed: December 5, 2003	:	TO WITHDRAW
Attorney Docket No. 295.009US4	:	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 21, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Baker Botts, L.L.P. does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/NEORX**
PO BOX 2938
MINNEAPOLIS, MN 55402

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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Naomi Sekino	: DECISION ON REQUEST FOR
Patent Number	: 7645245	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/729,074	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1713** 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 D. Esquivel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/729,079

Paper No.: _____

DATE : 5/18/05

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction on Patent No.: 6868684

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to.
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

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:

Cheryl J. [illegible]
SPE

3744
Art Unit

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FROM DIRECTORS OFFICE

OCT 13 2005

TECHNOLOGY CENTER 3600

LAWRENCE R. YOUST
DANAMRAJ & YOUST, P.C.
5910 North Central Expressway
Suite 1450
Dallas, TX 75206

In re application of : **DECISION ON PETITION**
Floyd Randolph Simonds et al. : **TO MAKE SPECIAL**
Application No. 10/729,094 : **(APPLICANT'S AGE)**
Filed: December 03, 2003 :
For: APPARATUS AND METHOD FOR COMPLETING AN INTERVAL OF A WELLBORE WHILE DRILLING

This is a decision on the petition submitted on May 10, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration for Mr. Chatterji indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 10/07/05

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Dapeng Wang	:
Application No. 10/729,112	:
Filed: December 5, 2003	:
Attorney Docket No. 2269-3579.2US(98-0062.02	:

This is a decision on the petition, filed May 17, 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 1, 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 3723 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).

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of	:
Scott A. Burton et al	:
Serial No.: 10/729,114	: PETITION DECISION
Filed: December 5, 2003	:
Attorney Docket No.: 59098US002	:

This is in response to the petition under 37 CFR 1.144, filed November 1, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on December 5, 2003, and contained claims 1-23. In a first Office action, mailed April 12, 2007, the examiner required restriction, as follows:

Group I – claims 1-18 and 21, drawn to a wound dressing comprising substrate, polymer matrix and microparticles;

Group II – claims 19 and 22, drawn to a wound dressing comprising substrate, polymer matrix of styrene-isoprene-styrene and microparticles; and

Group III – claims 20 and 23, drawn to a wound dressing comprising substrate, polymer matrix comprising styrene-isoprene-styrene polymer and microparticles of sodium polyacrylate copolymer.

The examiner reasoned that the Groups were directed to different articles based on their differing compositions and other limitations.

Applicants replied on May 8, 2007, electing the compounds of Group I with traverse and argued that Groups II and III were encompassed within generic Group I and should be rejoined therewith.

The examiner mailed a new Office action to applicants on July 20, 2007, acknowledging the election of Group I with traverse, but maintaining the requirement, and making it Final. The examiner argued that the Groups were distinct in not requiring the same limitations and searching all would place an undue burden on the Office. Claims 19-20 and 22-23 were withdrawn from consideration. The examiner then rejected claims 1-23 for obvious double

patenting over SN 10/728,577. Claims 4-6, 14 and 16 were then rejected under 35 U.S.C. 112, second paragraph, as indefinite for various reasons. Claims 1-6, 13-18 and 21 were rejected under 35 U.S.C. 102(b) as anticipated by WO 02/066087. Claims 7-8 were rejected under 35 U.S.C. 103(a) as unpatentable over WO '087 alone and claims 9-11 over WO '087 in view of Salcare and claim 12 over WO '087 in view of US 4,902,585.

Applicants replied to the Office action on October 22, 2007, amending claims 4-6 and addressing all of the rejections of record. This petition was filed on November 1, 2007, requesting withdrawal of an improper restriction requirement.

DISCUSSION

Applicant traverses the restriction requirement on the basis that claim 1 and Group I is generic to claims 19 and 20 (Groups II and III, respectively) since they merely include combinations of limitations from claims dependent on claim 1 and would have to be encompassed within a search of the claims of Group I.

A review of the claims shows that claim 1 is directed to a wound dressing comprised of three parts: 1) a hydrophobic organic polymer matrix; 2) an optional plasticizing agent; and 3) a hydrophilic organic microparticle. Claim 2 defines the polymer matrix as styrene-isoprene-styrene and others. Claims 9-11define the microparticle as being an amine containing organic polymer, specifically a methacrylate. Claim 19 is also to a wound dressing comprised of a styrene-isoprene-styrene copolymer and others, an optional plasticizing agent and a microparticle which is an amine containing organic polymer. Claims 20 is identical to claim 19 except that the microparticle is an acrylate. Thus the narrower limitations of claims 19 and 20 are also limitations found in claims dependent on claim 1. The examiner's argument that claims 19 and 20 do not have the particle sizes, porosity, etc., of the claims of Group I is invalid since claim 1 has no such limitations. Additionally, since all three Groups are classified in the same class and subclass there can be no undue burden on the Office for searching.

In view of the above the restriction requirement is withdrawn and all claims will be examined.

DECISION

The petition is **GRANTED** as set forth above.

The application will be forwarded to the examiner for consideration of applicants' reply filed October 22, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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H.B. FULLER, PATENT DEPARTMENT
1200 WILLOW LAKE BLVD.
P.O. BOX 64683
ST. PAUL MN 55164-0683

In re Application of	:	
Gregory W. Schad et al	:	
Application No. 10/729,116	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. DU-041-US-01	:	

This is a decision on the petition, filed May 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 April 26, 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 1713 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/729,121	12/05/2003	1731	900	VTOB.033C1	6	20	2

CONFIRMATION NO. 3263

CORRECTED FILING RECEIPT

OC000000013166925

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 07/07/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Mark A. Conkling, Chapel Hill, NC;

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/18040 06/06/2002
which claims benefit of 60/297,154 06/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 03/08/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Modifying nicotine and nitrosamine levels in tobacco

Preliminary Class

131

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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INTELLECTUAL PROPERTY DEPT.
AB 6490
100 N.E. ADAMS STREET
PEORIA, IL 61629-6490

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In re Patent No. 7,021,393	:	
Issue Date: April 4, 2006	:	
Application No. 10/729,127	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 03-173	:	

This is a decision on the petition filed June 2, 2006, 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) 272-3204. 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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GRIFFIN & SZIPL
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

In re Application of	:	
John R. Essig et al	:	
Application No. 10/729,145	:	ON PETITION
Filed: December 4, 2003	:	
Attorney Docket No. 001-US-02	:	

This is a decision on the petition, filed May 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The Power of Attorney submitted with the petition on May 5, 2006, is not proper since the request is signed by only one inventor. In accordance with 37 CFR 1.33(b)(4), both inventors must sign.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
NATH & ASSOCIATES
112 S. WEST STREET
ALEXANDRIA, VIRGINIA 22314

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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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DONALD F. HAAS
SHELL OIL COMPANY
LEGAL - INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of	:
Brendan D. Murray et al	:
Application No. 10/729,148	: DECISION ON PETITION
Filed: December 5, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TH1516 02 (US)	:

This is a decision on the petition filed October 22, 2004, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/566,461, filed May 8, 2000.

The petition is **DISMISSED** as moot.

The instant application was filed on December 5, 2003. Application No. 09/566,461 issued as Patent No. 6,653,514 on November 25, 2003. Therefore, Application No. 09/566,461 was not pending when the instant application was filed on December 5, 2003. Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the $130 fee submitted for the petition is unnecessary. Accordingly, petitioner may request a refund of the $130 petition fee submitted by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Petitioner should be aware that the fee for a petition under 37 CFR 1.78(a) is currently $1,370.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

This matter is being referred to Technology Center AU 1621.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FIBROGEN, INC.
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225 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

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CANCELLED

In re Application of	:	
Fourney, et al.	:	
Application No. 10/729,167	:	ON PETITION
Filed: December 4, 2003	:	
Attorney Docket No.FP0602.2 US		

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed March 8, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on July 15, 2006, after it was believed that no response was received to the election/restriction requirement mailed June 14, 2006. The notice allowed a non-extendable period for reply of one (1) month from its mailing date. A Notice of Abandonment was mailed on January 3, 2007, indicating that a reply to the notice was not received.

The instant petition maintains that a response to the notice was mailed on December 8, 2006. A copy of the response containing a certificate of mailing dated December 8, 2006, accompanied the petition. A review of the application file revealed said response noted as having been received on December 18, 2006.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was mailed, pursuant to 37 CFR 1.8, prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded to the Technology Center 1600, GAU 1654 further processing, including entry of the response filed December 18, 2006.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FIBROGEN, INC.
409 Illinois Street
San Francisco CA 94158

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OFFICE OF PETITIONS

In re Patent of Fourney et al.	:	DECISION ON REQUEST
Patent No. 7,618,940	:	FOR
Issue Date: November 17, 2009	:	RECONSIDERATION OF
Application No. 10/729,167	:	PATENT TERM ADJUSTMENT
Filed: December 4, 2003	:	and
Atty Docket No. FP0602.2 US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 19, 2010 (certificate of mailing date January 13, 2010), which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-five (1065) 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 sixty-five (1065)is **GRANTED to the extent indicated herein.**

Patentees assert the total period of adjustment is 1065 days, which is the sum of 540 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 934 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"), reduced by 45 days overlap, and reduced by 364 days of applicant delay.

The Office does not dispute patentees' assertions that the period of A delay is 540 days, the period of overlap between the period of A delay and the period of B delay is 45 days, and the period of applicant delay is 364 days.

The Office disagrees with patentees' assertion that the period of B delay is 934 days. The period of B delay in this case is 720 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends on the date the patent issues. In this case, a RCE was filed June 25, 2009. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The maximum possible period of B Delay in this case is 933 days, which is the number of days beginning on December 5, 2006, the day after the

date three years after the application's filing date, and ending on June 24, 2009, the day before the date the RCE was filed.

In addition, patentees' determination fails to exclude the number of days consumed by appellate review. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 213 day period beginning on November 24, 2008, the date the Notice of Appeal was filed, and ending on June 24, 2009, the day before applicants withdrew the appeal by filing a RCE. Excluding the 213 days consumed by appellate review results in a period of B delay of 720 days (933 - 213).

The correct patent term adjustment is 851 days, which is the sum of 540 days of A Delay and 720 days of B Delay, reduced by 45 days of overlap, and reduced by 364 days of applicant delay.

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 37 CFR § 1.136.

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 50-0811. No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred fifty-one (851)** days.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,618,940 B2

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : Fourney et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 570 days

Delete the phrase "by 570 days" and insert – by 851 days--

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jm

Mailed : 7-18-06

In re application of	:	
Allen et al.	:	DECISION ON
Serial No. 10/729,169	:	PETITION
Filed : December 4, 2003	:	
For: LOW ACTIVITATION ENERGY PHOTORESISTS		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 20, 2005 and made final in the office action mailed December 5, 2005.

On December 5, 2005, a restriction requirement was made between Groups I and II with the examiner's reasoning that the two were related as mutually exclusive species in an intermediate-final product relationship. The examiner stated that the intermediate product (Group I) is useful as a coating and is distinct since there is nothing on the record to show them to be obvious variants. Applicants traversed the restriction requirement in a response filed January 10; 2006. In their response, applicant argued that the groups were related as combination-subcombination, and that the claims of the combination are dependent upon the subcombination. The examiner repeated the restriction requirement in an office action mailed March 27, 2006 and made the restriction requirement final. In making the restriction final, the examiner states that the groups are separate and distinct and would place an undue burden on the examiner.

On May 31, 2006, the instant petition under 37 CFR 1.181 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 independent and distinct. Specifically, applicant argues that the examiner has not shown that the intermediate product may be used as a coating, and that the groups are related as combination-subcombination. Applicant further makes the argument that the claims are not separable as combination-subcombination.

DECISION

Sections 806.04(b) and 806.05(c) of the MPEP state in part:

806.04(b)

The intermediate and final product must have a mutually exclusive species relationship and as with all species restrictions, must be patentably distinct.
Typically, the intermediate loses its identity in the final product.
Additionally, the intermediate must be shown to be useful to make other than the final product. The examiner must give an example of an alternative use but need not provide documentation. Applicant then has the burden to prove or provide a convincing argument that the intermediate does not have the suggested use.

806.05(c) Criteria of Distinctness for Combination, Subcombination, or Element of a Combination
In order to establish that combination and subcombination inventions are distinct, two-way distinctness must be demonstrated.
To support a requirement for restriction, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status, or field of search. See MPEP § 808.02.
The inventions are distinct if it can be shown that a combination as claimed:
(A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in other and different relations.
When these factors cannot be shown, such inventions are not distinct.

The examiner has taken the position that the groups of claims are related as intermediate - final product. However, this does not appear to be a proper characterization of the relationship between the groups of claims. As stated above, "Typically, the intermediate loses its identity in the final product." In the instant application, this does not appear to occur. From paragraph 00133 of the instant specification, a listing of photoacid generators is provided with the proviso that they should have high thermal stability so they are not degraded during pre-exposure processing. Based upon this, the final product of the claims is merely an admixture of the individual components claimed in claim 1 and the additional materials found in claim 47. Only upon exposure to radiation does the additive react. No evidence has been presented by the examiner that the additional components in the dependent claim would alter or destroy the components claimed in claim 1 as would be required for a holding that the groups are related as intermediate - final product. Furthermore, claim 56 is also included in Group II and is merely a polymer blend of the polymer of Group I.

The proper relationship between the two groups is Combination - Subcombination. In the instant case, the combination as claimed requires the particulars of the subcombination. Therefor, distinctness cannot be shown between the two groups and restriction is not proper.

Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED.** Additionally, the amendment filed by Applicants on January 23, 2004 is deemed to be fully responsive and the petition under 37 CFR 1.181 is also **GRANTED.** The application is being forwarded to the examiner to rejoin the non-elected claims and preparing a new non-final office action addressing all pending claims.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

REED INTERNATIONAL PROPERTY LAW GROUP
1400 PAGE MILL ROAD
PALO ALTO, CA 94304-1124

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OFFICE OF PETITIONS

In re Application of :
Carsten M. Hjort et al :
Application No. 10/729,172 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. 5555.410-US

This is a decision on the petition, filed November 19, 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 March 6, 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 1636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSTROLENK, FABER, GERB &
SOFFEN, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of

Marshall Miles

Application No. 10/729,183

Filed: December 4, 2003

Attorney Docket No. P/144-327

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper response in a timely manner to the final Office action mailed March 29, 2005, which set a shortened statutory period for reply of three (3) months. An amendment was filed on October 3, 2005, with a request for an extension of time within the third month. An Advisory Action mailed October 13, 2005, informed applicant that the amendment failed to place the application in condition for allowance. No further responses were received within the allowable period. The application became abandoned on September 30, 2005. A Notice of Abandonment was mailed on November 25, 2005.

The Request for Continued Examination filed December 12, 2005, is noted and made of record.

The application is being forwarded to Technology Center 2800, GAU 2838 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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JUL 2 8 2004
OFFICE OF PETITIONS

In re Application of
Jan Lewandowski and Robert A. Bessler
Application No. 10/729,199
Filed: December 5, 2003
Attorney Docket No. 34968US2
Title: ULTRASONIC DETECTION OF EAR DISORDERS

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 March 9, 2004.

The above-identified application was filed on December 5, 2003, without an executed oath or declaration and identifying Jan Lewandowski and Robert A. Bessler as the joint inventors. Coincidentally, on March 9, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

Applicant has filed the instant petition, along with the associated petition fee and surcharge, a statement as to the last known address for the non-signing joint inventor, a statement of facts, copies of two letters, and a declaration which has been executed by joint inventor Lewandowski.

Petitioner has asserted that the non-signing inventor has refused to join in the application. Petitioner has set forth that he mailed a complete copy of the application to the last known address of the non-signing joint inventor. Petitioner has included a copy of the letter which accompanied this mailing, along with a copy of the non-signing inventor's response, in which he expressly refuses to join in the application.

Rule 47 applicant has met requirements (1) - (4) above.

Regarding the fifth requirement above, petitioner has not submitted a declaration which complies with 37 C.F.R. §1.63. The declaration submitted with the instant petition contains non-initialed and non-dated changes by joint inventor Lewandowski[2].

For this reason, the petition under 37 C.F.R. §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 "Renewed Petition under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing joint inventor coupled with a declaration which corrects the deficiency noted above. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

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2 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. None

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of
Jan Lewandowski and Robert A. Bessler
Application No. 10/729,199
Filed: December 5, 2003
Attorney Docket No. 34968US2
Title: ULTRASONIC DETECTION OF EAR DISORDERS

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed August 19, 2004.

The above-identified application was filed on December 5, 2003, without an executed oath or declaration and identifying Jan Lewandowski and Robert A. Bessler as the joint inventors. On March 9, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

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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.

With the original petition, filed March 9, 2004, Petitioners met requirements 1-4 above. A decision was mailed July 28, 2004 which dismissed the original petition, as the declaration submitted with the petition contained non-initialed and non-dated changes by joint inventor Lewandowski.

With the renewed petition, a declaration has been submitted which corrects this deficiency.

In light of this submission, 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 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 application will be forwarded to Technology Center 3700 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

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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Jan Lewandowski	: DECISION ON REQUEST FOR
Patent Number	: 7632232	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/729,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1711** 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Gary L. Swoboda et al. :
Application No. 10/729,214 :
Filed: December 5, 2003 :
Attorney Docket No. TI-34664 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2007, 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 December 13, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 14, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON, MD 21286

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OFFICE OF PETITIONS

In re Application of :
Roger Thomas :
Application No. 10/729,231 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. P-US-PR 1107

This is a decision on the petition filed August 9, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3725 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

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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

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Alexandria, VA 22313-1450
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HARNESS DICKEY & PIERCE, PLC
PO BOX 828
BLOOMFIELD HILLS MI 48303

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Roger Thomas	:	
Application No. 10/729,232	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. P-US-PR 1111	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 12, 2009.

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 submit corrected drawings as required by the Notice of Allowability mailed September 10, 2008. This Notice set a statutory period of three months for applicant to submit corrected drawings, including changes required by the Notice of Draftsperson's Patent Drawing Review (which required corrections to Figures 1, 3 and 5). No corrected drawings having been received, the application became abandoned on December 11, 2008. The Office mailed a Notice of Abandonment on January 8, 2009.

Petitioner argues that he submitted corrected drawings prior to the Notice of Allowability, on August 12, 2008. However, a review of those drawings does not indicate that petitioner submitted corrections to Figures 1, 3 and 5.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARNESS DICKEY & PIERCE, PLC
PO BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
Roger Thomas	:	
Application No. 10/729,232	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. P-US-PR 1111	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed April 23, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely submit corrected drawings as required by the Notice of Allowability mailed September 10, 2008. This Notice set a statutory period of three months for applicant to submit corrected drawings, including changes required by the Notice of Draftsperson's Patent Drawing Review (which required corrections to Figures 1, 3 and 5). No corrected drawings to Figures 1 and 3 having been received, the application became abandoned on December 11, 2008. The Office mailed a Notice of Abandonment on January 8, 2009. Applicant filed a petition to withdraw the holding of abandonment on February 12, 2009. However, the petition was dismissed in a decision mailed on March 16, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of corrected drawings (for Figures 1 and 3).

The application is being forwarded to the Office of Data Management 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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OFFICE OF PETITIONS

THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON, MD 21286

In re Application of	:	
Roger Thomas	:	
Application No. 10/729,234	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. P-US-PR-1115	:	

This is a decision on the petition, filed March 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 March 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 3725 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Swoboda, Gary L.	:	
Application No. 10/729,239	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. TI-34656	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 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 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Attn: Stephen P. Evans, Esq.
Marshall & Melhorn, LLC
Four SeaGate, 8th Floor
Toledo OH 43604

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
William E. Archer	:	
Application No. 10/729,241	:	DECISION ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 1-15822	:	
Title: DUAL FUNCTION BRAKE SYSTEM	:	

This is a decision on the petition filed on August 16, 2004, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign application prior to the filing of the instant application.

The record discloses that on December 5, 2003, the date of filing of the instant application, a Request and Certification under 35 USC 122(b)(2)(B)(i) was filed, certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing." This request was signed by the petitioner, over his registration number.

With the instant petition, petitioner states that the filing of a foreign application corresponding to the instant application was filed **prior** to the date of filing the instant application.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

The instant nonprovisional application did not become abandoned as a result of the published international application filed prior to the present application. In this regard, 35 USC 122(b)(2)(B)(iii) states:

An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional (emphasis added).

The facts of this case are that the subject application was filed in Italy on November 12, 2003, which is prior to the filing of the instant application on December 5, 2003. The statute does not provide for the situation where a certification under 35 USC 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed under a multilateral agreement. The statute at 35 USC 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 USC 122(b)(2)(B)(i) at the time of filing the application and an application was subsequently filed in a foreign country or under a multinational agreement without notifying the Office within 45 days of the filing thereof.

In view of the above, and since this application did not become abandoned pursuant to the provisions of 35 USC 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(f)is inappropriate and must be dismissed.

Therefore, the petition is **DISMISSED AS INAPPROPRIATE**.

Payment of the $1330.00 petition fee is acknowledged. The petition fee will not be refunded, as this petition was not necessitated by any error on the part of the Office.

After the mailing of this decision, the application file will be forwarded to Technology Center 3600.

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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. None

Attn: Stephen P. Evans, Esq.
Marshall & Melhorn, LLC
Four SeaGate, 8th Floor
Toledo OH 43604

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of
William E. Archer
Application No. 10/729,241
Filed: December 5, 2003
Attorney Docket No. 1-15822
Title: DUAL FUNCTION BRAKE SYSTEM

DECISION ON RENWED PETITION UNDER 37 C.F.R. §1.137(f)

This is a decision on the renewed petition filed September 15, 2004, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;

(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The original petition was filed August 16, 2004, and was dismissed via the mailing of a decision on September 9, 2004, as the Petitioner informed the Office that the foreign filing occurred prior to the date of filing the instant application.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

With the renewed petition, Petitioner sets forth that he included the wrong date in his previous petition. While the petition indicated that the foreign application had been filed in Italy on "November 12, 2003,[2]" Petitioner now sets forth that he misread the foreign application, and that the filing date should have been given as December 11, 2003, which is subsequent to the filing of the instant application.

Hence, Petitioner has now asserted that although the instant application was filed on December 5, 2003, along with the assertion that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing," the subject matter of the instant application was disclosed in foreign filing less than a week later on December 11, 2003.

37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The petition fee was submitted with the original petition. With the renewed petition, Petitioner has submitted both the notice of rescission and a statement which is being construed as the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

As such, the renewed petition is **GRANTED**.

After the mailing of the instant decision, the application will be forwarded to Technology Center 3600 for further processing.

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2 Original petition, page 1

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/30/2010

Applicant	: Mark Edward Riehl	: DECISION ON REQUEST FOR
Patent Number	: 7614996	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/729,243	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **586** 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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Commissioner for Patents
United States Patent and Trademark Office
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DEPARTMENT OF THE NAVY
OFFICE OF COUNSEL
3824 STRAUSS AVE, SUITE 103
INDIAN HEAD MD 20640-5152

MAILED

AUG 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Kirk E. NEWMAN et al.	:	
Application No. 10/729,264	:	DECISION ON PETITION
Filed: December 03, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 29, 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of July 28, 2008 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00 extension of time fee submitted with the petition on July 15, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1793 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.

Michelle R. Eason
Paralegal Specialist
Office of Petition

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DIW Dec-07

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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DEC 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Swoboda et al.	:	
Application Number: 10/729272	:	DECISION ON PETITION
Filing Date: 12/05/2003	:	
Attorney Docket Number: TI-34671	:	

This is a decision on the petition filed on October 19, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on March 14, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on December 13, 2006, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on April 11, 2007.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may 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)).

Receipt of the issue and publication fees filed with the present petition is acknowledged.

This application is being referred to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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William O'Driscoll
Trane
12-1
3600 Pammel Creek Road
La Crosse, WI 54601

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Bronaugh et al. :
Application No. 10/729,278 :
Filed: December 3, 2003 :
Attorney Docket No. D-2763/WOD :

This is a decision in response to the petition under 37 CFR 1.137(b), filed August 24, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 17, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on May 18, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the February 17, 2005 Office action is filed with the instant petition. Accordingly, the petition is granted.

Applicant files a three (3) month extension-of-time request with the instant petition; however, under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of notice of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office. As such, after August 17, 2005, no extensions-of-time were available and the application became abandoned for failure to reply within the period set forth in the Office action, on

May 18, 2005. Thereafter, a petition to revive the application is the appropriate course of action.

A refund of the extension of time fee, $1,020, has been credited to deposit account 20-1434, and the petition fee, $1,500, has been charged to deposit account 20-1434.

This application is being forwarded to Technology Center Art Unit 3745 for processing of the Amendment, filed with the instant petition on August 24, 2005, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-24-07

TO SPE OF : **Technology Center** 3745

10/729278

SUBJECT : Request for Certificate of Correction on Patent No.: 7168917 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.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

Claim 7 should be amended in the following manner:
On line 2, replace "both" with --path--.
On line 2, after "providing", insert --both--.
This will make claim 7 to be more consistent with lines 22 and 23 of claim 17. Other proposed corrections are approved.

Ed Tool — **SPE**

3745 — **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. : 7,168,917

APPLICATION NO.: 10/729,278

ISSUE DATE : January 30, 2007

INVENTOR(S) : David E. Bronaugh, Stephen S. Hancock and Jay E. Field

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:

In The Specification:

Column 2, Line 52, after the word "refers insert -- to --.

Column 4, Line 25, "between and" should read -- between end --.

In The Claims:

Claim 7, line 2, after the word "both" insert the following -- a reduced electrical path --.

Claim 17, line 23, after the word "electrical" insert the following -- path --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

William O'Driscoll
3600 Pammel Creek Road
La Crosse, WI 54601

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.

MAY 1 6 2007

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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
10/729,279	12/04/2003	2171	2152	034430-034	22	92	4

CONFIRMATION NO. 1604

CORRECTED FILING RECEIPT

OC000000012713012

Robert E. Krebs
THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 05/19/2004

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)

Ranganathan Srinivasan, San Jose, CA;
Abhijeet Kataria, Sunnyvale, CA;

Assignment For Published Patent Application

Hyperion Solutions Corp., a Delaware corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/05/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Multidimensional database query splitting

Preliminary Class
707

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/31/07

Paper No.: _____

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction on Patent No.: 7152670

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:

/Frantz F. Jules/
SUpervisory Patent Examiner
SPE

AU 3744
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Clare L. Hoke Jr.
Suite 11
1318 N. Monte Vista Ave.
Upland CA 91786

MAILED

MAR 10 2010

OFFICE OF PETITIONS

In re Application of
Hoke
Application No. 10/729,323
Filed: December 8, 2003
For: DIGITIZED INTELLECTUAL PROPERTY ARCHIVE WITH PREFERENTIAL METHOD OF TRANSFER AND ROUTING

: DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 29, 2008.

The Notice of Abandonment mailed September 17, 2008 indicates that the application is abandoned for failure to timely submit a proper reply to the Office communication mailed March 10, 2008.

Petitioner asserts that a complete reply to the Office communication was timely filed March 19, 2008.

The reply filed March 19, 2008 has been located in the official application file.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center 3621 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL (AMD)
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Teik-Chung Tan	: DECISION ON REQUEST FOR
Patent Number	: 7610476	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/729,331	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1292** 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.

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

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OFFICE OF PETITIONS

In re Application of Michael Fleisher, Sachin Ahuja, Adityo Prakash and Edward Ratner Application No. 10/729,348 Filing Date: December 5, 2003 Attorney Docket No. 10006.001810 Title: METHOD AND APPARATUS FOR MEASURING IMAGE COMPLEXITY	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a) FOR FILING WHEN AN INVENTOR REFUSES TO SIGN OR CANNOT BE REACHED," filed May 10, 2004 (certificate of mailing May 6, 2004).

The petition is **DISMISSED**.

Rule 47 applicants are given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on December 5, 2003, with an unexecuted declaration and missing the basic statutory filing fee. Accordingly, on March 8, 2004, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration, the filing fee and the surcharge under § 1.16(e) for late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

Applicants replied with the instant petition under § 1.47; payment of the petition fee, the filing fee and the late surcharge; and two declarations, executed in combination, by joint inventors Fleisher and Ratner on behalf of themselves and on behalf of non-signing inventors Ahuja and Prakash. Rule 47 applicants assert that status under § 1.47 is proper because of the unavailability of joint inventors Ahuja and Prakash. In support thereof, applicants submitted a statement of pertinent facts of James Okamoto.

A grantable petition under 37 CFR § 1.47(a) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63 and 1.64 or 1.175; (2) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The petition included payment of the petition fee; a declaration in compliance with § 1.47; and statements of the last known address of each of the non-signing inventors. However, the petition must be dismissed because requirement (1) has not been met.

Petitioner has not shown that the non-signing inventors, Ahuja and Prakash, cannot be found or reached after diligent effort to be presented with all of the application papers. The petition does not include adequate evidence to support a conclusion that diligent efforts have been made to find or reach the non-signing inventors to have him join in this application. Having been unsuccessful in contacting them by mail, there is no indication that Rule 47 applicants attempted to determine their forwarding addresses, and to send the application papers to those addresses for consideration. See MPEP 409.03(d). If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, a new telephone number, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached or found after diligent effort. Details of the efforts to locate the non-signing inventors should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should also submit documentary evidence such as the results of an E-mail or Internet searches.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application of Michael Fleisher, Sachin Ahuja, Adityo Prakash and Edward Ratner Application No. 10/729,348 Filing Date: December 5, 2003 Attorney Docket No. 10006.001810 Title: METHOD AND APPARATUS FOR MEASURING IMAGE COMPLEXITY	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)," filed September 14, 2004.

The petition is **GRANTED**.

The above-identified application was filed on December 5, 2003, with an unexecuted declaration and missing the basic statutory filing fee. In response to the "Notice to File Missing Parts of Application" mailed March 8, 2004, applicants filed the initial petition, asserting that status under § 1.47 is proper because of the unavailability of joint inventors Ahuja and Prakash. By decision mailed July 15, 2004, the petition was dismissed for failure to submit adequate proof that the non-signing inventors cannot be found or reached after diligent effort.

On instant renewed petition, petitioner submitted an updated statement of patent attorney James Okamoto. On a first hand knowledge basis, this statement further detailed the efforts to locate the non-signing inventors.

In view thereof, it is concluded that petitioner has now submitted adequate proof of the unavailability of non-signing inventors Ahuja and Prakash.

The declaration filed May 10, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the

addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in Technology Center 2624 in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Adityo Prakash
3320 Clearview Terrace
Fremont, CA 94539

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of :
Michael Fleisher, Sachin Ahuja, :
Adityo Prakash and Edward Ratner :
Application No. 10/729,348 : LETTER
Filing Date: December 5, 2003 :
Attorney Docket No. 10006.001810 :
Title: METHOD AND APPARATUS FOR :
MEASURING IMAGE COMPLEXITY :

Dear Mr. Prakash:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sachin Ahuya
220 Jessie Lane #3
Mountain View, CA 94041

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of :
Michael Fleisher, Sachin Ahuja, :
Adityo Prakash and Edward Ratner :
Application No. 10/729,348 : LETTER
Filing Date: December 5, 2003 :
Attorney Docket No. 10006.001810 :
Title: METHOD AND APPARATUS FOR :
MEASURING IMAGE COMPLEXITY :

Dear Mr. Ahuya:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

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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CRAWFORD MAUNU PLLC
SUITE 390
1270 NORTHLAND DRIVE
ST. PAUL MN 55120

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FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Dean w. Hahn-Carlson	:	
Application No. 10/729,350	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. USBA.008PA	:	

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 February 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3621 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).

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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TECHNOLOGY & INTELLECTUAL PROPERTY
STRATEGIES GROUP PC dba TIPS GROUP
P. O. BOX 1639
LOS ALTOS, CA 94023-1639

COPY MAILED

AUG 3 0 2007

OFFICE OF PETITIONS

In re Application of	:
Paul L. Hickman	:
Application No. 10/729,356	: DECISION GRANTING PETITION
Filed: December 5, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CYBRP001.US04	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 28, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 18, 1006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul L. HICKMAN	:	
Application No. 10/729,356	:	DECISION ON PETITIONS
Filed: December 05, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 13915.74.1.3	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 119(e) are accepted as being unintentionally delayed.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further,

the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

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 3764 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Thurman Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/729,356	12/05/2003	3764	625	13915.74.1.3	17	3

CONFIRMATION NO. 8257

CORRECTED FILING RECEIPT

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

OC000000034871364

Date Mailed: 03/05/2009

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)

Paul L. Hickman, Los Altos Hills, CA;

Power of Attorney: The patent practitioners associated with Customer Number 022913

Domestic Priority data as claimed by applicant

This application is a CON of 09/690,701 10/16/2000 PAT 6,808,472
which is a CON of 09/273,591 03/22/1999 PAT 6,193,631
which is a CON of 08/766,513 12/13/1996 PAT 6,059,692
and claims benefit of 60/008,603 12/14/1995

Foreign Applications

If Required, Foreign Filing License Granted: 03/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/729,356**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHOD AND APPARATUS FOR REMOTE INTERACTIVE EXERCISE AND HEALTH EQUIPMENT

Preliminary Class

482

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

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www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/26/2010

Applicant	: Paul L. Hickman	: DECISION ON REQUEST FOR
Patent Number	: 7575536	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/729,356	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **31** 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.

OIPE JC25
JAN 31 2005
PATENT & TRADEMARK OFFICE

IFW PET DEC

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	10/729,369
	Filing Date	December 8, 2003
	First Named Inventor	Paul J. GLATKOWSKI
	Art Unit	1772
	Examiner Name	Not Yet Assigned
	Attorney Docket Number	544392001500

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 5/20/05
J Motone
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
- [X] the attorneys/agents associated with Customer Number 25227

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:

Application is being transferred to another attorney.

This request is being made at the request of the assignee, **Elkos, Inc.**

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	James Remenick (Powell Goldstein, LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	US				
Telephone	(202)347-0066			Fax	(202) 624-7222
Signature					
Name	Wayne C. Jaeschke, Jr.		Registration No.		38,503
Date	January 31, 2005		Telephone No.		(703) 760-7756

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.

va-92052 v1

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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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PERKINS COIE
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

COPY MAILED

OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael W. Brennan	:	
Application No. 10/729,390	:	DECISION ON PETITION
Filed: December 5, 2003	:	TO WITHDRAW
Attorney Docket No. 40212.8002.US01	:	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 11, 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 Michael J. Wise on behalf of all attorneys of record who are associated with Customer No. 34055.

All attorneys/agents associated with the Customer Number 34055 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.

This matter is being referred to Technology Center AU 1756 for examination in due course.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier for
Amelia Au
Petitions Examiner
Office of Petitions

Attachment: Notice Regarding Change of Power of Attorney

cc: MICHAEL W. BRENNAN
LOGICAL IMAGING SOLUTIONS INC.
4188 CRESTHAVEN DRIVE
WESTLAKE VILLAGE, CA 91362

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BORGWARNER INC.
POWERTRAIN TECHNICAL CENTER
3800 AUTOMATION AVENUE
SUITE 100
AUBURN HILLS, MI 48326-1782

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OFFICE OF PETITIONS

In re Application of :
Shum :
Application No. 10/729,393 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. BW-DKT03092A :

This decision concerns the May 7, 2004 "Petition for Keeping the Filing Date of 12/5/2003" which, in conjunction with the concurrently filed "Response to Notice of Incomplete Nonprovisional Application," is being properly treated as a petition under 37 CFR 1.53(e)(2).

The petition is **GRANTED.**

The application was deposited on December 5, 2003. A "Notice of Incomplete Nonprovisional Application" was mailed on April 27, 2004 ("4/27/04 Notice"), stating that a filing date had not been accorded this application because the application was deposited without a specification, any claim or drawing. The petition then followed.

The petition contends that the allegedly missing items were filed on December 5, 2003. In support, the petition is accompanied by a copy of counsel's postcard receipt, indicating receipt in the USPTO for this application on December 5, 2003 of, *inter alia*, "specification," "drawings," "Declaration/POA." The petition also encloses copies of the papers purportedly filed on December 5, 2003: an 8-page specification (Page 7: 6 claims; Page 8: Abstract); 2 sheets of drawings of Figures 1, 1A, 2, and 2a. The Office file for this application, as pointed out in the 4/27/03 Notice, does not contain any specification, claim or drawing.

Based on the information contained in counsel's postcard receipt, the Office concludes that an 8-page specification (including 6 claims and an abstract) and 2 sheets of drawings had been filed on December 5, 2003 and received by the USPTO, but were later misplaced. The petition is thus granted.

The 4/27/04 Notice is hereby vacated.

No petition fee is owed. The $130 petition fee has been refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 5, 2003, using the papers filed on that date and supplemented with the re-submitted 8-page specification (including 6 claims and an abstract) and 2 sheets of drawings; for mailing a Filing Receipt reflecting that filing date; and for indicating in the USPTO record that 2 sheets of drawings were present on filing. Thereafter, the file will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070730

DATE : July 30, 2007

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction on Patent No.: 6952150

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:

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

SPE: Lincoln Donovan **Art Unit** 2837

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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Todd D. **WAKEFIELD, et al.** :
Application No. 10/729,417 :
Filed: December 5, 2003 :
Attorney Docket No. **17354.4.1** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 of February 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is May 2, 2007.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405,

and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2164 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 20, 2007

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/729429 Patent No.: 7063815 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: _____

Roy Van King — **SPE**

1742 — **Art Unit**

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HOEKENDIJK & LYNCH, LLP
P.O. BOX 4787
BURLINGAME, CA 94011-4787

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Ivan Sepetka, et al.
Application No. 10/729,432
Filed: December 4, 2003
Attorney Docket No. 005-005-C1

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 10, 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 February 11, 2009. A Notice of Abandonment was mailed on June 23, 2009. On July 13, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3731 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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K&L GATES LLP
P.O. BOX 1135
CHICAGO, IL 60690

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JAN 0 4 2010

OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	
Application No. 10/729,439	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 98-003-C2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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 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 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 June 18, 2009. A Notice of Abandonment was mailed September 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Carson C. K. Fincham appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. 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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3714 for further examination on the merits

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: CARSON C. K. FINCHAM
470 MAIN ST.
SUITE 303
RIDGEFIELD, CT 06877

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Stephen Gordon	: DECISION ON REQUEST FOR
Patent Number	: 7583732	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/729,443	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **944** 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: __

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OFFICE OF PETITIONS

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

In re Application of	:	
Sosa, et al.	:	DECISION
Application No.: 10/729,446	:	
Filing Date: 5 December, 2003	:	
Attorney Docket No. API-1028US (COS-936)	:	

This is a decision on the letter improvidently directed to the Examiner and without specification as to the authority relied upon for the purpose but nonetheless considered here as a petition, filed on 13 April, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED** in part and **DISMISSED** in part.

BACKGROUND

The record reflects that:

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[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.**

- Petitioner failed to reply timely and properly to the decision of the Board of Patent Appeals and Interferences (BPAI) mailed on 26 January, 2007, with reply due absent an extension of time on or before 26 March, 2007;
- the application went abandoned by operation of law after midnight 26 March, 2007;
- the Office mailed the Notice of Abandonment on 19 March, 2007;
- on 13 April, 2007, Petitioner filed via FAX the instant letter, and averred therein, *inter alia*, timely reply in the form of what Petitioner identifies as "a continuation application" but is referred to in the supporting documentation as "a continuation in part"–identified by Petitioner as Application No. 11/725,447 (averred to have been filed over a 24 March, 2007, certificate of express mailing).

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.[2]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for

---

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two

(2) months of the act complained of.

It appears Petitioner has satisfied the showings required herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted in part** to the extent that the 19 March, 2007, Notice of Abandonment is **vacated**, however, it appears that the instant application now stands abandoned as of midnight 26 March, 2007, and so in all other particulars, the instant petition is **dismissed**.

NOTES: (1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[10]

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

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[10] 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.

[11] See fee schedule: http://www.uspto.gov/main/howtofees.htm

grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The instant application is released to Technology Center 1700 for further processing to update Office records as is required in due course, and then released thereafter to IFW storage.

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

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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
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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
10/729,453	12/04/2003	1713	2688	ARC920030074US1		74	14

CONFIRMATION NO. 1035

CORRECTED FILING RECEIPT

OC000000012370696

23980
REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK, CA 94025

Date Mailed: 04/15/2004

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)

Gregory Breyta, San Jose, CA;
Richard Anthony DiPietro, Campbell, CA;
Daniel Joseph Dawson, San Jose, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/12/2004

Projected Publication Date: 06/09/2005

Non-Publication Request: No

Early Publication Request: No

Title

Precursors to fluoroalkanol-containing olefin monomers and associated methods of synthesis and use

Preliminary Class

526

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

JUN 6 2007

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO, PC
1400 PAGE MILL ROAD
PALO ALTO, CA 94304-1124

In re Application of	:
Gregory Breyta et al	:
Serial No.: 10/729,453	: PETITION DECISION
Filed: December 4, 2003	:
Attorney Docket No.: ARC920030074US1	:

This is in response to the petition under 37 CFR 1.144, filed March 30, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on December 4, 2003, and contained claims 1-74 (pages 48-85). In a first Office action, mailed October 12, 2006, the examiner required restriction between the inventions claimed, as follows:

Group I – claims 1-14 and 70, drawn to an aliphatic fluorinated polyol;
Group II – claims 15-27 and 71, drawn to an aliphatic fluoroalkanol ester;
Group III – claims 28-35, 39 and 72, drawn to a cycloaliphatic fluoroalkanol ester;
Group IV – claims 36-38, 40-43 and 73, drawn to a flourodihydroxy ester;
Group V – claims 44 and 74, drawn to a flourotrihydroxy ester;
Group VI – claims 45-49, drawn to a method of making Group I compounds;
Group VII – claims 50-56, drawn to a method of making Group II compounds; and
Group VIII – claims 57-69, drawn to making Group IV or V compounds.

The examiner reasoned that the compounds of Groups I-V were drawn to patentably distinct compounds. Groups VI - VIII were defined as process claims related to, but distinct from the product claims. Advisability of rejoinder of non-elected method claim with allowable product claims was set forth. The examiner reasoned that the different classifications and scope of the product claims posed an undue burden on the Office.

Applicants replied on November 13, 2006, electing Group II with traverse with respect to Groups II-V and VII-VIII only. Applicants argued that there is no undue burden to the search and examination of all of these groups of claims

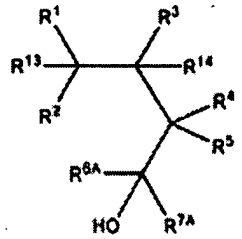
The examiner mailed an ex parte Quayle Office action to applicants on February 7, 2007, and remailed the action on February 23, 2007, correcting the time period for reply. The action indicated that the elected claims, 15-27 and 71 and the corresponding rejoined method claims, claims 50-56, were allowable and requested cancellation of all other non-elected claims. The examiner did not directly respond to applicants' traversal of the restriction requirement.

This petition was filed on March 30, 2007, traversing the restriction requirement as being in error.

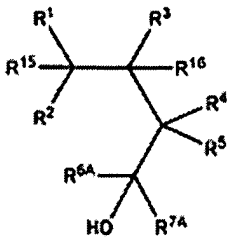
DISCUSSION

Applicants' petition is directed primarily to the restriction between compound Groups II-V and is based on similar structural elements and significant overlap of the compounds encompassed within the claims thus showing that the Groups are not distinct from each other, but also addresses the restriction between Groups I and II.

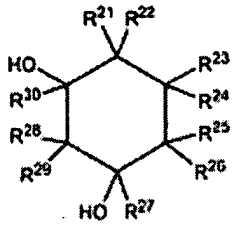
Claims 1, 15, 28, 36, and 44 are independent claims directed to various basic compound structures. (Claims 70-74 are also independent claims, but directed to specific narrower embodiments of the basic claims.) The basic structures are represented by formulas IV, V, VII, VIII and IX, as shown



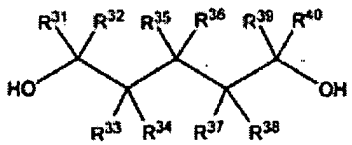
IV



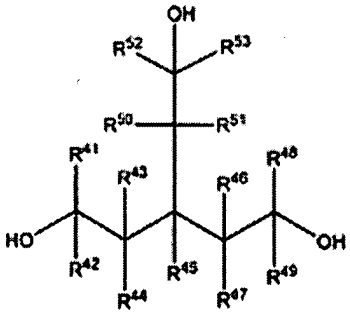
V



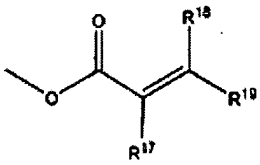
VII



VIII



IX



VI

Applicants first argue that Groups II-V all have in common ester structure VI (shown above) as a substituent (as R^{15} or R^{16}, R^{23} or R^{26}, R^{36} or R^{37}, and R^{45} or R^{46}) which is located in each structure 2 or 3 carbons distant from the hydroxyl group. However, restriction is not based on substituents or their location, but a common core. Here there is a carbon backbone in each

structure, but the backbones differ in that V is a 4-carbon chain with a terminal hydroxyl, VII is a cyclized 6-carbon ring with two hydroxyl groups, VIII is a five carbon chain with two terminal hydroxyl groups and IX is a branched 7-carbon trihydroxy structure. Thus each backbone is unique and the subject of a separate search. That is search for a diol or triol would not be the same as for a mono-ol.

Applicants further argue that claims 15, 36 and 44 significantly overlap based on R^1 in claim 15, when compared with $CR^{39}R^{40}OH$ in claim 36 (and similarly with claim 44). However, careful consideration of the numerous possibilities appears to show that overlap is avoided between the claims. Further, claim 15 does not appear to provide for branched structures.

Applicants also argue that claim 28 does not overlap in scope with the other claims, but is related to them in that it is a cyclized version of structure VIII. While this may be so, the structures will have different properties and be searched differently. (One would not search for a ring structure among non-cyclic structures or conversely.)

In view of the above the restriction between Groups II-V is seen as proper since there is no common core. Although applicants argue that there is overlap between the Groups, such overlap, if it exists, is based on a specific substitution in claim 15 of R^1 and modification of some other substituents (as stated by applicants). This does not suggest true overlap, but close relationship only.

Although not previously traversed, applicants then argue that Claim 1 and Claim 15 are of a similar structure only that substituents R^{13} and R^{14} are different and no ester structure of Group VI is included in the substituents. Applicants are correct in showing that the backbone structures are the same. Based on this, Groups I and II are not distinct except in their substitutions and it would appear should not have been restricted from each other. However, since one is characterized only as a polyol and the other as requiring an ester structure, restriction was proper.

DECISION

The petition is **DENIED** for the reason set forth above.

Applicants remain under obligation to reply to the Office action mailed February 23, 2007, within the time period set therein or as extended under 37 CFR 1.136(a).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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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
10/729,464	12/05/2003	3623	2094	MS305085.1/MSFTP479US	11	84	5

CONFIRMATION NO. 1267

CORRECTED FILING RECEIPT

OC000000013779656

27195
AMIN & TUROCY, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND, OH 44114

Date Mailed: 09/13/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Eric J. Horvitz, Kirkland, WA;
Nuria M. Oliver, Seattle, WA;

Power of Attorney:

Michael Bocianowski–28692
John Weresh–32332
Martin Shively–33553
Stacy Quan–33760
D. Bartley Eppenauer–35499
Ronald O. Zink–35744
Gregory Turocy–36952
Patricia E. Bornes–37038
Jeffrey L. Ranck–38590
Jeffrey Hale–40012

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/729,464

Projected Publication Date: 06/09/2005

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for guiding allocation of computational resources in automated perceptual systems

Preliminary Class

705

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Barnes and Thornburg
P. O. Box 2786
Chicago, IL 60690-2786

COPY MAILED
JUN 25 2004
OFFICE OF PETITIONS

In re Application of	:	
Tariq M. Malik, et al.	:	
Application No. 10/729,467	:	DECISION DISMISSING
Filed: December 6, 2003	:	PETITION
Attorney Docket No. 920036-94963	:	

This is a decision on the petition filed February 19, 2004, requesting that the above-identified application be accorded a filing date of December 5, 2003, rather than the presently accorded date of December 6, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be forwarded to Technology Center 1700 for examination in due course with the presently accorded filing date of December 6, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on December 5, 2003, pursuant to the requirements of 37 CFR 1.10. Petitioner has provided a copy of Express Mail label EV272186282US to support the allegations that the application papers were deposited on December 5, 2003. However, the Express Mail Label does not contain a "date-in" or any other official United States Postal Service (USPS) notation to confirm the package was deposited on December 5, 2003. Petitioner has also supplied a copy of the "USPS Track & Confirm Shipment History" which shows that the package was accepted on December 6, 2003 at 1:52 pm in Merrivllville, IN. Petitioner argues that the package was deposited in Chicago, IL and somehow wound up in Merrillville, IN.

Paragraph (a) of 37 CFR 1.10 states that:

> "Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States

> Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

There is no evidence provided to support petitioner's allegations and petitioner's arguments are not persuasive. 37 CFR 1.10(d) sets forth procedures for filing a petition where the "date-in" or other official notation is incorrectly entered by the USPS. Such a petition should:

> "(A) be filed promptly after the person becomes aware that the Office has accorded , or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and
>
> (C) include a showing that the correspondence was deposited as "Express Mail" prior to the last scheduled pickup on the requested filing date.

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPSO may be the "Express Mail" Corporate Account Mail Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

> (A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence);
>
> (B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").

37 CFR 1.10(f) provides that the Office may require additional evidence to determine whether the correspondence was deposited as "Express Mail" with the USPS on the date in question.

Although petitioner asserts that the package in question was deposited as "Express Mail" in Chicago, the USPS "Track & Confirm Shipment History" shows the package was accepted at Merrillville, IN. Petitioner must provide evidence to corroborate the assertions that the package was, in fact, deposited in

Chicago on December 5, 2003. Unless petitioner can prove these assertions, this application will retain the accorded filing date of December 6, 2003.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

COPY MAILED

MAR 18 2004

OFFICE OF PETITIONS

In re Application of	:
Lonsky, Nguyen, and Sartain	: DECISION REFUSING STATUS
Application No. 10/729,470	: UNDER 37 CFR 1.47(a)
Filed: 5 December, 2003	:
Atty Docket No. 18,693.1	:

This is in response to the petition filed under 37 CFR 1.47(a) on 10 December, 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 5 December, 2003, with a declaration naming Werner Franz Wilhelm Lonsky, William Hung Nguyen, and Kevin Bradley Sartain as joint inventors and signed by joint inventors Lonsky and Sartain on behalf of themselves and joint inventor Nguyen. The present petition was also filed on 5 December, 2003.

Petitioners state that joint inventor Nguyen refused by telephone to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not provided proof that Nguyen was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] While the petition includes a declaration containing Nguyen's signature filed in a prior provisional application, no declaration is required for a provisional application, and 37 CFR 1.63 does not permit the filing of a declaration, other than one filed in a prior nonprovisional application, to be filed in a subsequent application.[2] Further, there is no showing that Nguyen was ever sent or given a copy of the present application (specification, including the claims, drawings, if any, and the declaration).

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

In regards to item (2), the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[3] Specifically, there is an uninitiated and/or undated alteration

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[1] MPEP 409.03(d).

[2] See 37 CFR 1.63(d)(1).

[3] See 37 CFR 1.52(c).

in the signature block for joint inventor Lonsky. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, identifying the application by serial number and filing date, signed by the inventor to whom the error or deficiency relates is required.[4]

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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[4] 37 CFR 1.67(a)(2).

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DIW 05-04

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of	:
Lonsky, Nguyen, and Sartain	: DECISION ACCORDING STATUS
Application No. 10/729,470	: UNDER 37 CFR 1.47(a)
Filed: 5 December, 2003	:
Atty Docket No. 18,693.1	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 17 May, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, William H. Nguyen, has refused to join in the filing of the above-identified application despite having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor. However, the affidavit of Judy L. Garot establishes that the inventor refused orally to sign the declaration listing him as a joint inventor along with Werner Franz Lonsky and Kevin Bradley Sartain.

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, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for examination in due course.

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 05-04

William Hung Nguyen
1801 W. Pershing, #615
Appleton WI 54914

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MAY 2 6 2004
OFFICE OF PETITIONS

In re Application of
Lonsky et al.
Application No. 10/729,470
Filed: 5 December, 2003
For: Yellowing Prevention of Cellulose-Based Consumer Products

Dear Mr. Nguyen:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

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MAY 13 2009

OFFICE OF PETITIONS

In re Application
Pakola, et al.
Application No. 10/729,475
Filed: December 5, 2003
Dkt. No.: 113476.122US1

PATENT TERM ADJUSTMENT

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 9, 2009.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed December 17, 2008. The instant application was timely filed February 9, 2009 along with issue fee payment. Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this 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 ordinarily 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, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are 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. Applicants 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.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term 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 file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Wilmer Hale/Boston
60 State Street
Boston, MA 02199-7160

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APR 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,547,435	:
Pakola et al.	: DECISION UPON REMAND AND
Issue Date: June 16, 2009	: RECONSIDERATION OF
Application No. 10/729,475	: PATENT TERM ADJUSTMENT
Filed: December 5, 2003	: AND NOTICE OF INTENT
Attorney Docket No.	: TO ISSUE CERTIFICATE OF
113476.122US1	: CORRECTION
Title: Pharmacological	:
vitreolysis	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one hundred and eighty-three (183) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred and eighty-three (183) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,547,435 B2

DATED : June 16, 2009 **DRAFT**

INVENTOR(S) : Pakola 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 0 days

Delete the phrase "by 0 days" and insert – by 183 days--

PALM INTRANET

Day : Friday
Date: 4/9/2010
Time: 12:48:16

PTA Calculations for Application: 10/729475			
Application Filing Date:	12/05/2003	PTO Delay (PTO):	443
Issue Date of Patent:	06/16/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	563
Post-Issue Petitions:	0	Total PTA (days):	183
PTO Delay Adjustment:	303		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
148	04/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	10		
147	04/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	293		
139.5	05/27/2009	PTA 36 MONTHS	252		
139	06/16/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	7		131
138	05/18/2009	EXPORT TO FINAL DATA CAPTURE			
137	05/15/2009	DISPATCH TO FDC			
136	05/15/2009	EMAIL NOTIFICATION			
135	05/13/2009	MAIL-PETITION DECISION - DISMISSED			
134	05/12/2009	PETITION DECISION - DISMISSED			
133	03/05/2009	FINISHED INITIAL DATA CAPTURE			
132	02/27/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
131	02/09/2009	ISSUE FEE PAYMENT VERIFIED			
130	02/12/2009	WORKFLOW - DRAWINGS FINISHED		120	
128	02/23/2009	RECEIPT INTO PUBS			
127	02/09/2009	PETITION ENTERED			
126	02/13/2009	WORKFLOW - QUERY REQUEST - FINISH			
125	02/12/2009	TC RETURN TO PUBS			
124	02/09/2009	ISSUE FEE PAYMENT RECEIVED			
123	02/03/2009	WORKFLOW - QUERY REQUEST - BEGIN			
122	12/30/2008	RECEIPT INTO PUBS			
121	12/30/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
120	12/19/2008	EXPORT TO INITIAL DATA CAPTURE			
115	12/17/2008	MAIL NOTICE OF ALLOWANCE			
114	12/12/2008	ISSUE REVISION COMPLETED			
113	12/12/2008	DOCUMENT VERIFICATION			

112	12/12/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
111	12/12/2008	CASE DOCKETED TO EXAMINER IN GAU			
110	12/11/2008	EXAMINER'S AMENDMENT COMMUNICATION			
109	12/11/2008	NOTICE OF ALLOWABILITY			
108	11/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		42	91
107	11/07/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
106	11/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
105	11/07/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
100	06/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
99	10/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	11/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	10/09/2008	REFERENCE CAPTURE ON IDS			
96	10/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
95	11/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	10/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	09/26/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
92	10/09/2008	DATE FORWARDED TO EXAMINER			
91	09/26/2008	RESPONSE AFTER NON-FINAL ACTION		92	79
90	09/26/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
88	06/19/2008	REFERENCE CAPTURE ON IDS			
87	06/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	09/29/2008	EMAIL NOTIFICATION			
85	09/29/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
84	09/17/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
82	06/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

81	03/28/2008	ELECTRONIC REVIEW			
80	03/27/2008	EMAIL NOTIFICATION			
79	03/26/2008	MAIL NON-FINAL REJECTION			
78	03/17/2008	NON-FINAL REJECTION			
76	02/14/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
75	02/26/2008	DATE FORWARDED TO EXAMINER			
74	02/14/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	02/26/2008	DATE FORWARDED TO EXAMINER			
72	02/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		29	66
71	02/26/2008	DISPOSAL FOR A RCE / CPA / R129			
70	02/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
69	02/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	10/18/2007	ELECTRONIC REVIEW			
67	10/17/2007	EMAIL NOTIFICATION			
66	10/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
65	10/11/2007	FINAL REJECTION			
64	07/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	07/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	06/18/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	08/03/2007	DATE FORWARDED TO EXAMINER			
60	07/30/2007	RESPONSE AFTER NON-FINAL ACTION		5	51
59	07/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	07/19/2007	REFERENCE CAPTURE ON IDS			
57	07/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	07/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	06/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	06/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	04/28/2007	ELECTRONIC REVIEW			

52	04/26/2007	EMAIL NOTIFICATION			
51	04/25/2007	MAIL NON-FINAL REJECTION			
50	04/16/2007	NON-FINAL REJECTION			
49	04/03/2007	MISCELLANEOUS INCOMING LETTER			
48	04/06/2007	DATE FORWARDED TO EXAMINER			
47	03/30/2007	SUPPLEMENTAL RESPONSE		57	40
46	02/22/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	03/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44.7	03/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	03/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	02/22/2007	REFERENCE CAPTURE ON IDS			
42.7	02/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	02/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	02/13/2007	DATE FORWARDED TO EXAMINER			
40	02/01/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
39	02/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
38	01/12/2007	ELECTRONIC REVIEW			
37	01/10/2007	EMAIL NOTIFICATION			
36	01/10/2007	MAIL RESTRICTION REQUIREMENT			
35	01/04/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
34	10/25/2006	DATE FORWARDED TO EXAMINER			
33	10/19/2006	RESPONSE TO ELECTION / RESTRICTION FILED		94	31
32	10/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	04/17/2006	MAIL RESTRICTION REQUIREMENT			
30	04/14/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
29	01/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	02/18/2006	DATE FORWARDED TO EXAMINER			
27	02/10/2006	RESPONSE TO ELECTION / RESTRICTION FILED		94	25
26	02/10/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	08/08/2005	MAIL RESTRICTION REQUIREMENT	184		-1
24	08/05/2005	REQUIREMENT FOR RESTRICTION / ELECTION			

23	06/02/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	06/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	01/14/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
20	01/14/2005	REFERENCE CAPTURE ON IDS			
19.7	01/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	01/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	01/14/2005	PRELIMINARY AMENDMENT			
17	02/23/2005	APPLICATION RETURN FROM OIPE			
16	02/23/2005	APPLICATION RETURN TO OIPE			
15	02/23/2005	APPLICATION DISPATCHED FROM OIPE			
14	02/23/2005	APPLICATION IS NOW COMPLETE			
13	01/14/2005	ADDITIONAL APPLICATION FILING FEES		30	7
11	12/05/2003	CLAIM PRELIMINARY AMENDMENT			
10	01/14/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	01/14/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	01/31/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	09/15/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	01/08/2004	CLEARED BY OIPE CSR			
3	01/08/2004	CASE CLASSIFIED BY OIPE			
2	01/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/05/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PO BOX 1287
EVANSVILLE IN 47706-1287

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FEB 21 2008

In re Application of	:	
Barney P. Johnson	:	DECISION ON PETITION TO
Application Number: 10/729481	:	WITHDRAW HOLDING OF
Filing Date: 12/05/2003	:	ABANDONMENT
Attorney Docket Number:	:	
11929.001	:	

This is a decision on the petition to withdraw the holding of abandonment filed on January 15, 2008.

The petition is **GRANTED**.

The application was held abandoned on October 6, 2007, for failure to timely respond to the non-final Office action mailed on July 5, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on January 8, 2008.

Petitioner alleges that the an amendment in response to the non-final Office action mailed on July 5, 2007, was deposited in "Express Mail" service with the U.S. Postal Service on August 30, 2007. In support, petitioner has supplied a copy of Express Mail label no. EB251860503US (the same Express Mail number found on the first page of the amendment and response). The Express Mail label contains a "date-in" of "8 30 07". A duplicate copy of the amendment and response has also been supplied.

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 Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In", or other evidence from the USPS on the Express Mail label.[1] That is the date that verifies that the package was actually mailed. In view of the above, the showing of record is that the correct date of deposit in Express Mail of the amendment in response to the non-final Office action mailed on July 5, 2007, is August 30, 2007.

In view of the above, the petition is granted. No petition fee is required.

As petitioners have provided convincing evidence that a response to the non-final Office action mailed on July 5, 2007, was filed on August 30, 2007, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is <u>withdrawn</u>, and the Notice of Abandonment is <u>vacated</u>.

---

[1] MPEP 513.

The application is being referred to Technology Center Art Unit 2624 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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700 S. GREEN RIVER RD.
SUITE 2000
EVANSVILLE IN 47715

MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Barney P. Johnson	:	
Application No. 10/729,481	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 11929.001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 6, 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 application became abandoned on December 13, 2007. A Notice of abandonment was mailed August 7, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington NY 11743

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Oettel et al.	:	
Application No. 10/729,487	:	DECISION REFUSING STATUS
Filed: December 5, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 576B	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 29, 2004. Applicants obtained a two-month extension of time to respond. Therefore, 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).

The above-identified application was filed on December 5, 2003, without an executed oath or declaration. Accordingly, on January 16, 2004, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and a surcharge for its late filing.

In response, on April 29, 2004, applicants filed the present petition, a request for a two-month extension of time to reply, a declaration signed by 5 out of 6 inventors and a Declaration of Facts of Eva-Maria Cramer and Ute Pilchowski.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (2) 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. The declaration does not identify residence, mailing address or country of citizenship of any of the inventors. The Office notes that the oath or declaration must identify the country of citizenship of each inventor, 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 correct mailing address and citizenship of each inventor, and is signed by the 5 signing inventors on behalf of Dr. Wildt, the nonsigning inventor.

The $130.00 petition fee will be charged to Deposit Account No. 19-4675, as authorized.

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 related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington NY 11743

COPY MAILED

SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of
Oettel et al.
Application No. 10/729,487
Filed: December 5, 2003
Attorney Docket No. 576B

:DECISION ON PETITION AND
:NOTING JOINDER OF
:INVENTOR

This is in response to the renewed petition under 37 CFR 1.47(a) filed on August 19, 2004.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and such a petition is moot.

Accordingly, the petition is dismissed as moot.

This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This matter is being referred to Technology Center AU 1616 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 21 2005

PGI
P.O. Box 535
Decatur IL 62525

In re Application of Kevin Bell Application No. 10/729,489 Filed: December 05, 2003 For: STEREOPHONIC FAIRING ACCESSORY	: : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on August 31, 2005.

The petition is **DISMISSED**.

It is noted that the petition is not considered official correspondence, as it was not signed. Applicant's attention is drawn to 37 CFR 1.4 which recites that to be considered official correspondence an original signature is required. Therefore, the merits of applicant's petition will not be addressed.

However, it is noted that a review of the file record reveals that a Non-Final rejection was mailed on November 16, 2004, setting a three-month extendable response period. A Notice of Abandonment was mailed, on June 02, 2005, indicating that no response to the November 16, 2004 Office action was received. Both the Non-Final rejection and Notice of Abandonment were mailed to the correspondence address filed with the original declaration. Each was returned as undeliverable. No change of correspondence address is of record. As such, both the Non-Final Rejection and Notice of Abandonment were properly mailed. All correspondence will continue to be sent to the correspondence address of record filed with the original declaration unless a letter changing the correspondence address is submitted.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which

may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Deputy Commissioner of Patent Examination Policy
Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
Attn: Office of Petitions

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

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(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/bkg 11/15/05

ATTACHMENT: Change of Correspondence Address Application

cc: Kevin Bell
156 S, Water St Apt #514
Decatur, Illinois 62523

FILE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/729,491	12/04/2003	1765	770	100-14320 (P04927-D01)	20	12	1

CONFIRMATION NO. 3061

CORRECTED FILING RECEIPT

OC000000012592602

33402
LAW OFFICES OF MARK C. PICKERING
P.O. BOX 300
PETALUMA, CA 94953

Date Mailed: 05/11/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Terry Lines, Crowley, TX;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/824,653 04/03/2001 PAT 6,703,670

Foreign Applications

If Required, Foreign Filing License Granted: 03/08/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Method for forming a depletion-mode transistor that eliminates the need to separately set the threshold voltage of the depletion-mode transistor

Preliminary Class

438

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 24, 2006

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/729491 Patent No.: 7144795 B1

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: _____

MICHAEL LEBENTRITT
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

SPE: A. Awad

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/25/07

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/729,505 Patent No.: 7164401

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: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE — **Art Unit** 2629

SPE: A. Award

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/25/07

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/729,505 Patent No.: 7164401

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2629
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

AGILENT TECHNOLOGIES, INC.
LEGAL DEPT. DL429
P.O. BOX 7599
LOVELAND CA 80537

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MAR 1 6 2004

OFFICE OF PETITIONS

In re Application of
Annette C. Grot et al.
Application No. 10/729,508
Filed: December 5, 2003
Attorney Docket No. 10004289-1

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on December 5, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 5, 2003 naming Annette C. Grot and Thomas J. Mikes as inventors but without a signed declaration. The present petition was also filed on December 5, 2003 with a declaration signed only by joint inventor Annette C. Grot. Petitioners assert that the Attorney Jon E. Holland had several telephone conversations with joint inventor Thomas J. Mikes regarding the application up until about March 2003 wherein, numerous telephone calls and E-mail messages were made to the non-signing inventor, Thomas J. Mikes, and that none of the subsequent phone calls or E-mail messages were returned. Petitioners seek status under 37 CFR 1.47(a) since they have been unsuccessful in reaching Mr. Mikes with respect to this application since March 2003.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

In regards to item (1), petitioners have not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

The statement made by the attorney of record suggests that telephone conversations and E-mail messages were exchanged between Mr. Holland and Mr. Mikes for a period of time. However, the information provided by Mr. Holland does not suggest that in that period of time when Mr. Holland and Mr. Mikes were in communications, that a copy of the application was ever sent to Mr. Mikes.

The evidence presented does not bear proof that Mr. Mikes has had the opportunity to review the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AGILENT TECHNOLOGIES, INC.
LEGAL DEPT. DL429
P.O. BOX 7599
LOVELAND CA 80537

COPY MAILED
JUN 0 9 2004
OFFICE OF PETITIONS

In re Application of
Annette C. Grot et al.
Application No. 10/729,508
Filed: December 5, 2003
Attorney Docket No. 10004289.1

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) on May 17, 2004 (certificate of mail date).[1]

The petition is GRANTED.

The above-identified application was filed on December 5, 2003. The application names Annette C. Grot and Thomas J. Mikes as inventors. The declaration is signed by inventor Grot only. The applicant files this petition alleging that joint inventor Thomas J. Mikes refuses to cooperate with the filing of the application and seeks status under 37 CFR 1.47(a).

By remarks made by Jon E. Holland, the Attorney of Record, and a copy of the letter sent to Mr. Mikes, forwarding to him the complete application, it was shown that Mr. Mikes has been afforded an opportunity to review the application as filed and that his failure to return an executed oath or declaration in response to the requests to do so, is tantamount to a refusal to cooperate with the filing of the application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

[1] A petition under 37 CFR 1.47(a) was filed December 5, 2003 and dismissed in a decision mailed March 16, 2004.

Thus, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 2877 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/729,509	12/04/2003	3672	514		48	6	6

24245
WILLIAM BANNING VAIL III
3123 198TH PLACE SE
BOTHELL, WA 98012

CONFIRMATION NO. 1990

CORRECTED FILING RECEIPT

OC000000012315490

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)

James E. Chitwood, Houston, TX;
William Banning Vail III, Bothell, WA;
Damir S. Skerl, Houston, TX;
Robert L. Dekle, Tulsa, OK;
William G. Crossland, Seattle, WA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/223,025 08/15/2002
and claims benefit of 60/432,045 12/08/2002
and claims benefit of 60/448,191 02/18/2003
and claims benefit of 60/455,657 03/18/2003
and claims benefit of 60/504,359 09/20/2003
and claims benefit of 60/523,894 11/20/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/12/2004

Projected Publication Date: 07/15/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

High power umbilicals for electric flowline immersion heating of produced hydrocarbons

Preliminary Class

175

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office,
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/729,511	12/04/2003	1621	1004	ARC920030073US1		33	3

CONFIRMATION NO. 2373

CORRECTED FILING RECEIPT

OC000000012370841

23980
REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK, CA 94025

Date Mailed: 04/15/2004

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)

Gregory Breyta, San Jose, CA;
Richard Anthony DiPietro, Campbell, CA;
Daniel Joseph Dawson, San Jose, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/12/2004

Projected Publication Date: 06/09/2005

Non-Publication Request: No

Early Publication Request: No

Title

Precursors to fluoroalkanol-containing olefin monomers, and associated methods of synthesis and use

Preliminary Class

568

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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MAYER FORTKORT & WILLIAMS
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of :
Michael Magers, et al. :
Application No. 10/729,526 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. 055003 :

This is a decision on the petition, filed September 26, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 7, 2005. A Notice of Abandonment was mailed on September 26, 2005. On September 26, 2006, the present petition was filed.

It is noted that applicants contend that the Notice of Allowance mailed April 7, 2004 was not received. Applicants state that a search of the file jacket and docket records indicates that the Notice of Allowance was not received. In support thereof applicants submitted the docket record for the above-identified application.

The evidence presented by applicants is insufficient to withdraw the holding of abandonment. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;
(2) A statement attesting to the fact that a search of the file jack and docket records indicates that the Office communication was not received; and
(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket record indicated above must also include a copy of the **list** of all responses in the practitioner's office with the due date of July 7, 2005. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993). The petition has failed to comply with requirement (3) indicated above. Accordingly, the request to withdraw the holding of abandonment cannot be granted.

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)(III)(C) and (D). The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is granted.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[3].

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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.

[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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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CHUN-POK LEUNG
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

JUL 2 8 2005

Technology Center 2100

In re Application of: Nomoto, et al.
Application No. 10/729,536
Filed: 5 December 2003
For: DATA CONVERSION METHOD AND COMPUTER SYSTEM THEREFOR

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 19 November 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 19 November 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 provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. The petition furnishes only a terse squib as the "detailed discussion" for each of the references. For example, in addressing references 1, 2, 3, et seq. Petitioner simply supplies a short, two-sentence abstract for each reference. This sparse summary of each reference does not provide the requisite "detailed discussion of the references" in accordance with section (e) supra. Petitioner's cursory treatment of the references does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

In the discussion of the references, Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. Likewise, the petition must show, for each independent-claim, specific language that distinguishes 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
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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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: NOMOTO, et al.
Application No. 10/729,536
Filed: December 5, 2003
For: DATA CONVERSION METHOD AND COMPUTER SYSTEM THEREFOR

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 22 September 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 19 November 2004. The petition was dismissed for failure to 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.

Applicants' submission filed 22 September 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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THEODORE J. BIELEN JR.
BIELEN, LAMPE, & THOEMING
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD CA 94520

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APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Roetzer et al.	:	DECISION ON PETITION
Application No. 10/729,572	:	
Filed: 12/03/2003	:	
Atty Docket No. 14634	:	

This is a decision on the petition under 37 CFR 1.137(b) filed on 1 February, 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 decision.

This application became abandoned on 16 February, 2006 for failure to timely file a response to the non-final Office action mailed on 15 November, 2005, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 24 August, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after

June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition lacks items (1) and (3).

With regard to item (1), petitioners filed papers intended as an amendment in response to the non-final Office action with the present petition, but the papers are not signed. 37 CFR 1.4(c) requires that each piece of correspondence filed in the Office must be signed. While the proposed amendment contains a signature block for registered attorney Theodore J. Bielen, Jr., the signature block has been left blank.

Petitioners should provide a signed amendment with a renewed petition.

With regards to item (3), petitioner must provide a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner may wish to utilize the attached petition form, which contains the required statement of unintentional delay, when submitting a renewed petition. No further petition fee is due.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

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)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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THEODORE J. BIELEN JR.
BIELEN, LAMPE, & THOEMING
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD CA 94520

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Roetzer et al.	:	DECISION ON PETITION
Application No. 10/729,572	:	
Filed: 12/03/2003	:	
Atty Docket No. 14634	:	

This is a decision on the renewed petition under 37 CFR 1.137(b) filed on 16 May, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 16 February, 2006 for failure to timely file a response to the non-final Office action mailed on 15 November, 2005, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 24 August, 2006. The petition filed on 1 February, 2007, was dismissed on 26 April, 2007.

Petitioners have provided a signed amendment and petition form.

The application is being referred to Technology Center Art Unit 3732 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Edwards & Angell, LLP
P.O. Box 55874
Boston, MA 02205

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of: Kirill Ostanin, et. al.	:	
Application No. 10/729,576	:	NOTICE
Filed: December 1, 2003	:	
Attorney Docket No. 50370-60409CON	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This 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 (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Edwards & Angell, LLP
101 Federal Street
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

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OFFICE OF PETITIONS

In re Application of	:	
Sukeyuki Shinotsuka	:	
Application No. 10/729577	:	DECISION ON PETITIONS
Filed: 12/03/2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7272-132/ 10314101	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed on 7 June, 2007, 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(a)-(d) for the benefit of priority to prior-filed foreign applications, as set forth in the concurrently filed Application Data Sheet (ADS).

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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred to Technology Center Art Unit 2622 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/729,577	12/03/2003	2622	1022	7272-132/ 10314101	22	4

CONFIRMATION NO. 2295

CORRECTED FILING RECEIPT

OC000000025427716

167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

Date Mailed: 08/17/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Sukeyuki Shinotsuka, Sayama-shi, JAPAN;

Assignment For Published Patent Application

Honda Giken Kogyo Kabushiki Kaisha

Power of Attorney: The patent practitioners associated with Customer Number **000167**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP02/03481 04/08/2002

Foreign Applications

JAPAN 2001-209983 06/06/2001
JAPAN 2001-209985 06/06/2001

If Required, Foreign Filing License Granted: 03/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/729,577

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Image sensor and method

Preliminary Class

348

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED

JUN 20 2008

In re Application of	:	
Gary L. Swoboda	:	
Application No. 10/729,591	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. TI-34658	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 19, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed December 13, 2006. A Notice of Abandonment was mailed on April 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (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 the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Office of Petitions: Decision Count Sheet

Mailing Month 6

Office of Petitions Internal Document (version: 4.26.6)

Application No. 10729591

10729591

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official: SMITH, ANDREA

Count (1) - Palm Credit 10/729,591

Decision Type: 510 - 37 CFR 1.137(b) FOR REVIVAL TO ACCEPT LATE PAYMENT OF ISSUE FEE

Decision: GRANT

Time Period for Reply:

COPY MAILED

JUN 20 2008

Notes:

Count (2)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

Count (3)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

_____ Initials of Approving Official (if required)

if more than 3 decisions, attach 2nd count sheet & mark this box ☐

Printed on: *6/18/08*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,607	12/05/2003	Rikin S. Patel	200901531-1	2892

22879 7590 08/20/2009
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
MADAMBA, GLENFORD J

ART UNIT	PAPER NUMBER
2451	

NOTIFICATION DATE	DELIVERY MODE
08/20/2009	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):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
jessica.l.fusek@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Dan C. Hu
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED

AUG 19 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Rikin S. Patel
Application No. **10/729,607**
Filed: December 5, 2003
Atty Docket No. 200901531-1
Title of Invention: SYSTEM AND METHOD FOR FAULT MANAGEMENT IN A SERVICE-ORIENTED ARCHITECTURE

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed August 03, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to designate Examiner's Answer mailed 06/04/09 as new grounds of rejection over Hsu et. al., Cantania et. al, and Russell et. al.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to Examiner's Answer as improperly applying a new reference (Russell et. al.), and as such is hereby requesting that the ground set forth in the Examiner's Answer be designated as new ground of rejection over Hsu et. al., Cantania et. al, and Russell et. al.

The petition is **DISMISSED**.

RELEVANT PROSECUTION HISTORY

08/07/07 Non-final action was issued. Claims 1, 3-13, 16-29 and 29-44 were rejected under 35 USC 102(e) as being anticipated by HSU et. al. Further claims 2, 14-15, 27-28 and 45 were rejected under 35 USC 103(a) as being unpatentable over HSU et. al. in view of CATANIA et. al.

10/26/07 Amendment/Reply under 37 CFR §1.111 was filed. Claims were amendment, namely, claims 2-3, 6, 11 and 26 were **amended** and claims 1, 13-14 were canceled. Basic argument were the applied reference(s) do not claim added limitations to independent claims 11 and 26, also present in claim 2.

01/28/08 Final action was issued. Claims 2-12, 15-26 and 29-44 were rejected under 35 USC 103(a) as being unpatentable over HSU et. al. in view of AGARWAL et. al.

Further claims 27-28 and 45 were rejected under 35 USC 103(a) as being unpatentable over HSU et. al. in view of AGARWAL et. al. in further view of CATANIA et. al. The AGARWAL et. al. references appears to be introduced in the rejection of at least claims 2-12, 15-26 and 29-44 to teach claim limitation "translating the service request into a non-web service language" (see p. 3).

03/11/08 After-Final Amendment/Reply was filed. No amendments to the claims were filed. Claims 2-12, and 15-45 pending. Applicant requested finality of office action mailed 01/28/08 withdrawn.

Reason being independent **claim 45 not amended** was rejected under new grounds, namely, rejected under 35 USC 103(a) as being unpatentable over HSU et. al. in view of AGARWAL et. al. in further view of CATANIA et. al.

Furthermore, claim 2 was only amended (according to applicant) by **rewriting claim 2 in independent form** (i.e. incorporating the features of claim 1). Thus, the amendment to claim 2 did not change the scope of claim 2

05/16/08 Final action was issued. Examiner's remarks (p. 2) indicate that: "Applicant's remarks and arguments concerning the finality of the rejected claims under 103(a) grounds of rejection as being obvious over Hsu in view of Agarwal and in further view of Catania have been considered and **deemed persuasive**. Thus, the finality of the rejected claims under Hsu in view of Agarwal and Catania of the previous action is ***withdrawn,*** and the following grounds of rejection is accordingly provided for the present claims." Claims 2-12 and 15-45 were rejected under 35 USC 103(a) as being unpatentable over HSU et. al. in view of CATANIA et. al. Final office action stated the rejection was made file by applicant's amendment (p. 14).

In this rejection the **AGARWAL et. al. reference was removed**, and thus claims 2-12, 15-45 were rejected under HSU et. al. in view of CATANIA et. al. The later reference was relied upon in rejecting at least claims 2-12, 15-26 and 29-44, to teach claim limitation "translating the service request into a non-web service language" (see p. 3).

08/12/08 Notice of Appeal was filed.

08/12/08 Pre-Brief Appeal Conference was requested.

10/23/08 Pre-Brief Appeal Conference decision was mailed. Decision indicated Proceed to the Board of Patent Appeals and Interferences.

02/23/09 Appeal Brief is filed.

03/23/09 Non-compliant Appeal Brief is filed. The Brief does no contain a statement of the status of all claims (e.g. rejected, allowed, withdrawn, objected to, canceled) or does not identify the appealed claims (37 CFR 41.37(c) (1)(iii).

04/22/09 Corrected Appeal Brief was filed.

06/04/09 Examiner's Answer to Appeal Brief was mailed. In the Response to Argument section (10) of the Answer (p. 21), examiner states:

> As support for this position, the Office provides supplemental / evidentiary prior art to *Russell* et al - cited but not referred to - which expressly details the well-known feature of converting or 'translating' request / response messages from a 'web services' format to a 'non-web services' format - and vice versa - through serialization or deserialization of a message object (e.g., 'Java Bean') for application to web services [0004-0006] [0019-0020] [0040-0048] [Figs. 2,5,6 &10].

Grounds of rejection set for in Examiner's Answer include: Claims 2-12 and 15-45 rejected under 35 U.S.C. 103(a) as being unpatentable over HSU et. al. in view of CATANIA et. al.

STATUTES, RULES AND PROCEDURES

MPEP 1207.03 [R-3] New Ground of Rejection in Examiner's Answer

37 CFR 41.39(a)(2) permits the entry of a new ground of rejection in an examiner's answer mailed on or after September 13, 2004. New grounds of rejection in an examiner's answer are envisioned to be rare, rather than a routine occurrence. For example, where appellant made a new argument for the first time in the appeal brief, the examiner may include a new ground of rejection in an examiner's answer to address the newly presented argument by adding a secondary reference from the prior art on the record.

New grounds of rejection are not limited to only a rejection made in response to an argument presented for the first time in an appeal brief. At the time of preparing the answer to an appeal brief, the examiner may decide that he or she should apply a new ground of rejection against some or all of the appealed claims. In such an instance where a new ground of rejection is necessary, the examiner should either reopen prosecution or set forth the new ground of rejection in the answer.

The examiner must obtain supervisory approval in order to reopen prosecution after an appeal. See MPEP §1002.02(d) and § 1207.04. A supplemental examiner's answer cannot include a new ground of rejection, except when a supplemental answer is written in response to a remand by the Board for further consideration of a rejection under 37 CFR 41.50(a).
See MPEP § 1207.05.

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection

remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. At 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976).

Where the statutory ***basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same***, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

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.

If the TC Director or designee decides that the rejection is considered a new ground of rejection and approves the new ground of rejection, the examiner would be required to send a corrected examiner's answer that identifies the rejection as a new ground of rejection and includes the approval of the TC Director or designee. The appellant may then file either a request that prosecution be reopened by filing a reply under 37 CFR §1.111, or a request that the appeal be maintained by filing a reply brief or resubmitting the previously-filed reply brief, within two months from the mailing of the corrected answer.

If the TC Director or designee agrees with the examiner that the rejection is not a new ground of rejection, ***the examiner would not be required to send a corrected examiner's answer***.

OPINION

The prosecution history of instant application has been carefully reviewed.

The facts are: The RUSSELL et. al. was listed as prior art of record and not relied upon and considered pertinent to applicant's disclosure on office action mailed 08/07/07 and further made of record, i.e. thereby cited on PTO-892 08/07/07.

Further the RUSSELL et. al. reference was not relied upon as the basis of rejection for any pending claims 2-12 and 15-45 in the Examiner's Answer to Appeal Brief mailed 06/04/09.

This reference is made reference to in the Response to Argument section (10) of Examiner's Answer as "supplemental / evidentiary prior art".

Thus, the RUSSELL et. al. is ***not*** a new prior art reference *applied or cited* for the first time in an examiner's answer and was not used to support a rejection (not even in minor capacity), hence, would not have to be included in the statement of rejection.

However, Examiner's Answer to the Appeal Brief on Section (8) Evidence Relied Upon lists US 2004/0039964 RUSSELL et. al., as a reference under this ***sub-heading***.

It will be left to the Board of Appeals and Interference to determine whether the including of this reference under said sub-headings are sufficient grounds for a remand to the Examiner.

For the reasons stated above, this petition is **Dismissed**.

The Examiner's Answer will be forwarded to the Board of Patent Appeals and Interferences.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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YAHOO! INC.
C/O Ostrow Kaufman & Frankl LLP
The Chrysler Building
405 Lexington Avenue, 62nd Floor
NEW YORK, NY 10174

Mail Date: 04/20/2010

Applicant	: John J. Thrall	: DECISION ON REQUEST FOR
Patent Number	: 7634472	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/729,621	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **184** 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

DATE : April 28, 2010

TO SPE OF : ART UNIT 2618
SUBJECT : Request for Certificate of Correction for Appl. No 10/729638 patent 7248850

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2618
Art Unit

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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AUG 20 2008

In re Application of	:	
Gary L. Swoboda et al.	:	
Application No. 10/729,647	:	DECISION ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. TI-34666	:	

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 March 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 21, 2006. Accordingly, the date of abandonment of this application is March 22, 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 $1440.00 and the publication fee of $300.00, (2) the petition fee of $1540.00; 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 Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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DEC 14 2004

OFFICE OF PETITIONS

In re Application of	:
Moore et al.	: DECISION GRANTING
Application No. 10/729,681	: PETITION
Filed: 5 December, 2003	:
Attorney Docket No. INI-0031-D2	:

This is a decision on the petition styled under 37 CFR 1.182, filed on 28 October, 2004, which is treated as a petition under 37 CFR 1.53, requesting that the above-identified application, including 26 sheets of drawings, be accorded a filing date of 5 December, 2003.

The application was filed on 5 December, 2003. Accordingly, on 1 October, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 28 October, 2004, the present petition was filed, accompanied by 26 sheets of drawings.

Petitioners assert that the application as filed included 26 sheets of drawings which were misplaced after receipt at the USPTO. In support, a copy of petitioners' itemized postcard receipt was supplied. The postcard bears an Office date of 12-05-03 and the above-identified application number and itemizes the filing of, *inter alia*, "Figures (26 sheets)".

A review of the record reveals that no sheets of drawings received on 5 December, 2003, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 5 December, 2003, included 26 sheets of drawings which were subsequently misplaced in the Office. Therefore, the application, including 26 sheets of drawings, is entitled to a filing date of 5 December, 2003.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be credited to counsel's deposit account, No. 06-1130.

The application will be processed with the copy of the 26 sheets of drawings supplied on 28 October, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 5 December, 2003, using the application papers filed on that date, and the copy of 26 sheets of drawings described in the specification supplied with the present petition, and for an indication in Office records that 26 sheets of drawings were present on filing.

Telephone inquiries 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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THOMAS KAYDEN HORSTEMEYER & RISLEY LLP
100 GALLERIA PARKWAY NW SUITE 1750
ATLANTA GA 30339-5948

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JUL 1 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Michael Hong, Jiangming Xu	:	
Application No. 10/729,684	:	
Filed: December 5, 2003	:	DECISION ACCORDING STATUS
Attorney Docket No. 252209-1020	:	UNDER 37 CFR 1.47(a)

This is in response to the "PETITION TO FILE APPLICATION ON BEHALF OF INVENTOR WHO REFUSES TO SIGN", filed December 5, 2003, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on December 5, 2003, without a fully executed declaration. The declaration contained the signatures for inventor Jiangming Xu; however, the signature block for Michael Hong was left blank. Accompanying the filing of the application was the instant petition.

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 attested that inventor Hong was provided with a copy of the application papers via certified mail and e-mail. In support thereof, Rule 47 applicant has included copies of the e-mails transmitting the application papers. Subsequent attempts to procure Hong's signature were unsuccessful, and according to Rule 47 applicant, as of the date of the petition, no executed declaration from Hong has been received.

While Rule 47 applicant has not provided a statement of the last known address of Hong, the address listed on the 37 CFR 1.63 declaration is assumed to be his last known address: Rule 47 applicant should notify the Office if this is not correct.

On petition, Rule 47 applicant satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the filing of the application 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 non-signing inventor at the address listed on the declaration. 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 2173 for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL HONG
11512 COUNTRY SPRING CT
CUPERTINO CA 95014

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JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of Michael Hong and Jiangming Xu Application No. 10/729,684 Filed: December 5, 2003 Title: Apparatus and Method for Rendering Graphics Primitives Using a Multi-Pass Rendering Approach	: : : : : : :	LETTER

Dear Mr. Hong:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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, 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 pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. 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).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Daniel McClure
Thomas, Kayden, Horstemeyr & Risley, LLP
100 Galleria Parkway, NW, Suite 1750
Atlanta, Georgia 30339-5948

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Deere & Company
One John Deere Place
Moline, IL 61265

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Dirk Weichholdt	:	
Application No. 10/729,690	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. 09208-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2005, 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) under 37 CFR 1.114, along with the filing fee of $750 and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3671.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

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JAN 0 3 2006

OFFICE OF PETITIONS

In re Application of
Amr Hassan O'Baid, et al.
Application No. 10/729,719
Filed: December 5, 2003
Attorney Docket No.: 10467.63US01

ON PETITION

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 12, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3744 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY - 5 2005

In re Application of BURGYAN ET AL.
Appl. No.: 10/729,729
Filed: December 05, 2003
For: SYSTEM AND METHOD FOR DRIVING LEDS

WITHDRAWAL FROM ISSUE
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 application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquiries should be directed to Michael Sherry, Supervisory Patent Examiner, at (571) 272-2084.

The application is being forwarded to the examiner for action.

Richard K. Seidel
Director
Patent Examining Technology Center 2800

Philip W. Woo
c/o SIDLEY AUSTIN BROWN & WOOD LLP
SUITE 5000
555 CALIFORNIA STREET
SAN FRANCISCO, CA 94104-1715

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9301 SOUTHWEST FREEWAY
HOUSTON, TX 77074

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Sims, Brian	:	
Application No. 10/729,733	:	DECISION ON PETITION
Filed: December 6, 2003	:	
Attorney Docket No. 18.1000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 7, 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 3763 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of
Jan Lewandowski
Application No. 10/729,741
Filed: December 5, 2003
Attorney Docket Number: 34968US3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 15, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 16, 2004. Accordingly, a Notice of Abandonment was mailed June 14, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 3737 for appropriate action on the amendment filed August 15, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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 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 : 6/25/09

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10729748 Patent No.: 7435452 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 571-270-9996

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: _____

AU 1792

PAGE 2/2 * RCVD AT 7/16/2009 10:43:44 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2709990 * CSID:7033051086 * DURATION (mm-ss):01-36

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OCT 19 2004

Dennis W. Davis
427 East Washington Avenue
Eustis FL 32726

In re Application of	:	
Jeffrey L. Powers, et al.	:	
Serial No.: 10/729,757	:	DECISION ON PETITION
Filed: December 5, 2003	:	
For: Portable Device for Dispensing Hand	:	
Treatments	:	

This is in response to the petition applicant filed on June 25, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jordan M. Meschkow
Meschkow & Gresham, PLC
Suite 409
5727 North 7th Street
Phoenix, AZ 85014

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of
Shepherd, et al.
Application No.: 10/729,809
Filed: December 5, 2003
Attorney Docket No: 8029-A-1

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed February 25, 2008.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed September 13, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on December 14, 2005. A Notice of Abandonment was mailed on March 17, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; **and** (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).
>
> Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office may consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,
>
> (A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or
>
> (B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under 37 CFR 1.137 was (A) "unavoidable" in a petition under 37 CFR 1.137(a); or (B) "unintentional" in a petition under 37 CFR 1.137(b).

It appears that petitioner should have been aware that the application was abandoned on, or about March 17, 2006, yet the instant petition was not filed until almost two years later. Petitioner did explain the delay in filing the instant petition and how the delay was unintentional.

Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Jordan M. Meschkow
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Suite 409
5727 North 7th Street
Phoenix, AZ 85014

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In re Application of	:	
Shepherd, et al.	:	
Application No.: 10/729,809	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No: 8029-A-1	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed April 10, 2008.

The renewed petition is GRANTED.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed September 13, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on December 14, 2005. A Notice of Abandonment was mailed on March 17, 2006. A petition under 37 CFR 1.137(b) was first filed on February 25, 2008, and dismissed by a decision mailed March 14, 2008.

The amendment filed February 25, 2008 is noted.

The application file is being directed to Technology Center 3600, GAU 3634 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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ROONEY PC
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ALEXANDRIA, VA 22313-1404

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Marcio Gerep :

Application No. 10/729,815

: DECISION ON PETITION

Filed: December 5, 2003

:

Attorney Docket No. 030365

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed November 21, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on February 27, 2006. An Advisory Action mailed March 13, 2006, advised petitioner that the response of February 27, 2006 failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on February 22, 2006. A Notice of Abandonment was mailed on October 2, 2006.

The Request for Continued Examination filed January 3, 2007, is noted and made of record

The application is being forwarded to Technology Center 2800, GAU 2856 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Mark E. Herrmann	: DECISION ON REQUEST FOR
Patent Number	: 7666084	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/729,826	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1268** 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.