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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Florian Von Der Mulbe, et al.	:	
Application No. 10729,830	:	DECISION ON PETITION
Filed: December 5, 2003	:	TO WITHDRAW
Attorney Docket No. 075067-0501	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 23, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on February 12, 2007.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: MARK J. PINO AND LAWRENCE J. CARROLL
CONNOLLY, BOVE, LODGE & HUTZ, LLP
1900 M STREET, NW
SUITE 800
WASHINGTON, DC 20036

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of
Florian Von Der Mulbe, et al.
Application No: 10729,830
Filed: December 5, 2003
Attorney Docket No. 075067-0501

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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April M. Wise
Petitions Examiner
Office of Petitions

cc: MARK J. PINO AND LAWRENCE J. CARROLL
CONNOLLY, BOVE, LODGE & HUTZ, LLP
1900 M STREET, NW
SUITE 800
WASHINGTON, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE, CA 95164

Mail Date: 04/21/2010

Applicant	: Gary R. Holt	: DECISION ON REQUEST FOR
Patent Number	: 7639741	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/729,834	: 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 **1330** 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.:20080529

DATE : May 28, 2008

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction on Patent No.: 6,993,859

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Anthony D Stashick/ Art Unit 3781

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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

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AUG 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,199,434 :
Issue Date: April 3, 2007 :
Application No. 10/729,859 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket Number: NAY 0001 :
PA/31558.2

This is a decision on the petition, filed December 31, 2008, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about April 3, 2007, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

As the petition fee of $400.00 has been received, the petition is granted.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer (Fax – (571) 270-9753)

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Paper No. None

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

COPY MAILED

FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Geoffrey T. Dunbar et al. :
Application No. 10/729,863 :
Filing Date: December 5, 2003 :
Attorney Docket No. MS1-1720US :
Title: METHOD AND SYSTEM FOR :
REVERSE PLAYBACK OF COMPRESSED :
DATA

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

This is a decision on the petition under 37 C.F.R. §1.10(d), filed October 18, 2004, requesting the according of a filing date of December 5, 2003 to application number 10/729,863.

The application was deposited on December 8, 2003. Shortly thereafter, the Office mailed a filing receipt, indicating that application number 10/729,863 had been accorded a filing date of December 8, 2003.

With the instant petition, Petitioner has included a copy of the Express Mail label number EV316937455US[1].

Petitioner has alleged that the application was deposited on December 5, 2003, and the Patent Office has incorrectly assigned a filing date of December 8, 2003 to the instant application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of December 8, 2003. Petitioner has asserted that this information was incorrectly entered, and the field should indicate that the package was received by the USPS On December 5, 2003.

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

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

However, Petitioner has enclosed a print-out of this same website, presumably from prior to the information being taken off-line. This print-out shows an entry of "ENROUTE, December 05, 2003, 5:29 pm, SPOKANE, WA 99224." Thus, although the print-out does not state what date the package was accepted, it is clear that the USPS had possession of the same on this date.

Although the application received a filing date of December 8, 2003, the evidence is convincing that the application papers were filed on December 5, 2003, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of December 5, 2003.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 5, 2003, as well as the mailing of a corrected filing receipt.

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

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

Encl.

United States
Patent And
Trademark Office

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

PETITION DECISION

RECEIVED
APR 0 7 2004
Technology Center 2600

03/19/04

Jeffrey T. Klayman
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/729871 received on 12/30/03 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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MINNEAPOLIS MN 55440-1022

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JUL 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,465,445	:	
Tezuka et al.	:	DECISION DISMISSING
Issue Date: 12/16/2008	:	APPLICATION FOR
Application No. 10/729880	:	PATENT TERM ADJUSTMENT
Filed: 12/05/2003	:	UNDER 37 CFR 1.705(d)
Attorney Docket No.	:	
14539-005002 / JF-82US-C1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed January 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 672 days to 1272 days.

The request for reconsideration patent term adjustment is **DISMISSED**.

On December 16, 2008, the above-identified application matured into U.S. Patent No. 7,465,445 with a patent term adjustment of 672 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 742 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 600 days do not overlap as these periods do not occur on the same day.

The 742-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 5, 2003, and the patent having been issued on December 16, 2008, three years and 742 days later. Patentees assert that in addition to this 742-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 600 days. This 600-day period is the period of delay for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1). A Restriction

Requirement was mailed on September 28, 2006, 14 months and 600 days after the application was filed on December 5, 2003.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 70 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (742 days) and the period of Examination Delay (600 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1342 days, which is the sum of the period of Three Year Delay (742 days) and the period of Examination Delay (600 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 1272 days (742 days + 600 days reduced by 0 days overlap – 70 days (applicant delay)).

The Office agrees that as of the issuance of the patent on December 16, 2008, the application was pending three years and 742 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 600 days is correct. At issue is whether patentees should accrue 742 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 600 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 600 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C.

154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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

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

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

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 5, 2003, to the date the patent issued on December 16, 2008. Prior to the issuance of the patent, 600 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 600 days of examination delay overlap with the 742 days of Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 742 days, not 742 days + 600 days. The Office took 14 months and 600 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 600 days of Office delay and the 70 days of applicant delay and the time allowed within the time frames for processing and examination, the application issued three years and 742 days after its filing date. The Office did not delay 742 days and then an additional 600 days. Accordingly, 742 days of patent term adjustment (not 742 days and 600 days) was properly entered because the period of delay of 742 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 600 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

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

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

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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

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

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MINNEAPOLIS MN 55440-1022

In re Application of	:	
Tezuka et al.	:	ON PETITION
Patent Number: 7,465,445	:	FOR RECONSIDERATION OF
Issue Date: 12/16/2008	:	PATENT TERM ADJUSTMENT
Application No. 10/729880	:	and
Filing or 371(c) Date: 12/05/2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number:	:	CERTIFICATE OF CORRECTION
14539-005002 / JF-82US-C1	:	

This is a decision on the renewed petition filed on August 13, 2009, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred seventy-two (1272) 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 two hundred seventy-two (1272) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred seventy-two (1272) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,465,445 B2

DATED : **December 16, 2008**

INVENTOR(S) : Tezuka 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 672 days.

Delete the phrase "by 672 days" and insert – by 1272 days--

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COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGE PORT, CT 06605-1601

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OCT 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Cheryl L. Willman, et al. :
Application No. 10/729,895 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. N12-038US :

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 29 2005

MILLER LAW GROUP, PLLC
25 Stevens Avenue
West Lawn, PA 19609

In re application of Joseph C. Hurlburt Application No. 10/729,896 Filed: December 08, 2003 For: TRAILER HAVING TILT AND DUMP FUNCTIONS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 11, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Hurlburt 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: 08/23/05

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25 STEVENS AVENUE
WEST LAWN PA 19609

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JUN 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph C. Hurlburt	:	
Application No.: 10/729896	:	
Filing or 371(c) Date: 12/08/2003	:	
Title of Invention: TRAILER HAVING	:	
TILT AND DUMP FUNCTIONS	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment (37CFR 1.181(a)) and Petition to Revive an Abandoned Application (Under 37 CFR 1.137(b))," filed March 28, 2008.

This Petition under 37 CFR 1.181(a) is hereby **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 12, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on April 13, 2006. A Notice of Abandonment was mailed February 26, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed on April 12, 2006. Applicant also avers that prosecution of the application proceeded thereafter, including the mailing by this Office of a non-final Office action on January 30, 2007, and response thereto on April 26, 2007.

Review of Office records

A review of Office records also reveals that Applicant is correct[1].

[1] Office records reveal that the Examiner noted in an Interview Summary mailed July 21, 2006 that the finality of the previous Office action (mailed January 12, 2006), was withdrawn, and that a new Office action (mailed January 30, 2007), would be forthcoming.

Conclusion

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee is due. A refund of the fee for the petition under 37 CFR 1.137(b) has been scheduled via Treasury Check.

The application will be referred to Technology Center Art Unit 3652 for continued processing consistent with this Decision[2].

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

Derek L. Woods
Attorney
Office of Petitions

[2] Applicant's asserts in the petition that the Examiner approved the Amendment filed April 26, 2007 and forwarded the application for allowance; however, the application file does not support this assertion, and Applicant correctly notes that no Notice of Allowance was mailed in this Application.

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25 STEVENS AVENUE
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SEP 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph C. Hurlburt	:	DECISION VACATING PRIOR
Application No.: 10/729896	:	DECISION;
Filing or 371(c) Date: 12/08/2003	:	DISMISSING PETITION UNDER
Title of Invention: TRAILER HAVING	:	37 CFR 1.181 and GRANTING
TILT AND DUMP FUNCTIONS	:	PETITION UNDER 37 CFR 1.137(a)

This is a decision vacating the Decision on Petition mailed June 12, 2008, in response to a "Petition to Withdraw Holding of Abandonment (37CFR 1.181(a)) and Petition to Revive an Abandoned Application (Under 37 CFR 1.137(b))," filed March 28, 2008. This is also a decision addressing the petition under 37 CFR 1.137(a) filed September 5, 2008.

This Decision on Petition mailed June 12, 2008 is hereby **vacated**.

The petition under 37 CFR 1.181(a) is hereby **dismissed**.

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

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 12, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on April 13, 2006. A Notice of Abandonment was mailed February 26, 2008.

Applicant filed a "Petition to Withdraw Holding of Abandonment (37CFR 1.181(a)) and Petition to Revive an Abandoned Application (Under 37 CFR 1.137(b))," on March 28, 2008, wherein Applicant asserted that a timely response to the Office action was filed on April 12, 2006. Applicant also averred that prosecution of the application proceeded thereafter, including the mailing by this Office of a non-final Office action on January 30, 2007, and response thereto on April 26, 2007.

A review of Office records revealed that the Examiner had agreed to withdraw the finality of the Office action of January 12, 2006 in an Interview Summary mailed July 21, 2006.

The petition was granted. However, the Interview Summary mailed July 21, 2006, was mailed after the statutory period for reply had expired and the application had become abandoned by operation of law. 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).

Review of Office records

A review of Office records reveals that the reply to the Office action filed April 12 and April 13, 2006, failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed May 3, 2006.

Petition under 37 CFR 1.181(a)

35 U.S.C. § 133, Time for prosecuting application, states:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable. (Emphasis supplied).

Id.

The use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

In the present case, a complete and proper reply to the Office action of January 12, 2006 was due on April 12, 2006, and in no case could the period for reply extend beyond July 12, 2006. Thereafter the application was abandoned. The Interview Summary mailed after the application had become abandoned was ineffective to withdraw the abandoned status of the application. In view of the above, the petition to withdraw the holding of abandonment is hereby dismissed.

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 petition fee

As to item (2), Office records reveal that the fee for the petition under 37 CFR 1.137(b), filed with the petition on March 28, 2008, has been refunded to Petitioner. Therefore, this petition must be dismissed since item (2) is lacking.

Petition under 37 CFR 1.137(a)

Given the circumstances of the abandonment of the above-referenced application, the petition under 37 CFR 1.137(a) is granted.

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

Anthony Knight
Supervisor
Office of Petitions

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MATTINGLY, STANGER, MALUR & BRUNDIDGE P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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MAY 3 1 2005

Technology Center 2100

In re Application of: Shimada et al.
Application No. 10/729,925
Filed: December 9, 2003
For: APPARATUS AND METHOD FOR PARTITIONING AND MANAGING SUBSYSTEM LOGICS

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

This is a response to the petition filed April 22, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which

special status is requested. A search made by a foreign patent office satisfies this requirement;

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

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

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 5/24/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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FAIRFAX VA 22033

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Hul Chun Hsu	:	
Application No. 10/729,932	:	DECISION ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. OP094000506	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed November 29, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 (no fee) in light of the refund request filed December 18, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed September 2, 2005. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on December 3, 2005. A Notice of Abandonment was mailed on July 27, 2006.

Petitioner asserts that the Office action was mailed to the incorrect address. A review of the record reveals that petitioner filed a Revocation and Power of Attorney and Change of Correspondence Address on August 17, 2005. It is obvious from reviewing the file that the Revocation of Power of Attorney and Change of Correspondence Address was not entered, and that the Office action was erroneously mailed to the incorrect address.

In view thereof, **the holding of abandonment is withdrawn.**

Given the basis for granting this petition, the $250 petition fee has been refunded to Deposit Account No. 50-3303, as requested.

The matter is being forwarded to Group Art Unit 3753 for re-mailing of the September 2, 2005 Office action to the above address of record, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

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JUN 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Masaki Suzui	:	DECISION ON PETITION TO
Application No. 10/729,945	:	WITHDRAW HOLDING OF
Filed: 12/09/2003	:	ABANDONMENT
Attorney Docket Number:	:	
00862.023357.	:	

This is a decision on the petition filed on 16 November, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the final Office action mailed on 28 February, 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 4 October, 2006.

Petitioner asserts that the final Office action was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received

Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioners at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petition includes a statement by registered patent attorney Gregory S. Weaver, stating that a search of the file jack of the above-identified case and of the docket record indicates that the Office Action was not received. A copy of the docket report is referenced in the petition and enclosed therewith.

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

The petition is **GRANTED.**

The application file is being referred to Technology Center 2800 technical support staff for remailing of the Office action mailed 28 February, 2006. The period for reply will be reset from the mailing date thereof.

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

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APR 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Yamashita	:	
Application No. 10/729,975	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No.	:	
24-011-TB	:	

This is a decision on the Petition to Accept an Unintentionally Delayed Priority Claim, filed December 6, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/JP02/06815, filed July 4, 2002, set forth in the amendment submitted concurrently with the instant petition[1]. The delay in treating this petition is regretted.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

[1] The petition requests confirmation of acceptance of an earlier claim for domestic priority; however, the claim was made in the application Transmittal form, and not in the first line of the specification following the title of the invention or in an Application Data Sheet as required by 37 CFR 1.78, and as such was not recognized by this Office.

> **(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 international 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 international application has been included in an Application Data Sheet, 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 and 365(c) to the above-noted, prior-filed international 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed 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 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.

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

Any inquiries concerning this decision may be directed to the undersigned 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 2829 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted prior-filed international application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HOSTEMEYER & RISLEY LLP
100 GALLERIA PARKWAY
SUITE 1750
ATLANTA GA 30339

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Yuan-Chang Chin	:	
Application No. 10/729,979	:	ON PETITION
Filed: 12/09/2003	:	
Attorney Docket No. 251316-1710	:	

This is a decision in reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 9 August, 2007.

The petition is **DISMISSED**.

This application became abandoned on 12 April, 2007, for failure to submit a timely response to the non-final Office action mailed on 11 January, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 3 August, 2007.

Petitioner asserts that a timely reply was filed by EFS-Web on 4 April, 2007, and has included a copy of the Acknowledgement Receipt showing transmission of 10 pages of an amendment, a power of attorney, and a Rule 3.73 document by EFS on 4 April, 2007.

Petitioner's argument has been considered, but is not persuasive.

Pursuant to MPEP 711.04(b), the electronic file is the official record of the application. A review of the Image File Wrapper (IFW) file reveals that on 4 April, 2007, 10 pages of an amendment were filed. Upon review, however, the amendment references Application No. "10/901,284" and a different inventor's name, art unit, examiner's name, filing date, and invention title than that of the subject application.

Pursuant to 37 CFR 1.5(a), when a letter directed to the Patent and Trademark Office concerns a previously filed application for

a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; *e.g.*, 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application.

In this case, it appears that applicant inadvertently filed, on 4 April, 2007, an amendment intended to be filed in another application. However, the showing of record is that no amendment intended for the subject application was timely filed.

Although the USPTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so.[1] Rather, it is the applicants who are ultimately responsible for filing proper documents.[2]

The USPTO EFS-Web Legal Framework states that "[o]ne advantage of filing an application via EFS-Web is that applicant may view the submission in PAIR." As such, applicants could have reviewed the amendment after filing and rectified the error by timely filing the correct document.

Furthermore, the "Acknowledgment Receipt" supplied by the EFS-Web electronic filing system that is of record in the IFW of 10/729,979 and has that application number affixed thereto (N417 paper dated 7/13/2007), is, as stated in the Legal Framework that supports EFS-Web, merely equivalent to a postcard receipt under MPEP 503. The Legal Framework also provides that:

> "If the official version of any document received by the EFS-Web is lost, damaged or rendered unreadable by the USPTO and if it cannot be recovered from the stored files received by electronic submission, then the applicant/reexamination party will be promptly notified as indicated in the EFS-Web instructions. In that situation, the applicant/reexamination party may have to resubmit the document(s) or portion of the document that are lost and petition for the original filing date. <u>Such events are expected to be rare, indeed since inception of the EFS project no document submitted using USPTO EFS software and received in EFS has been lost.</u> In most cases a phone call to the Electronic Business Center (EBC) will resolve the issue. But if

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[1] <u>See</u> <u>In re Colombo Inc.</u>, 33 USPQ2d 1530, 1532. (Comm'r Pat. 1994).

[2] <u>Id</u>.

> that is not sufficient, the applicant/reexamination party would present (1) the Acknowledgement Receipt, (2) a copy of the missing files as submitted and (3) a signed petition and statement verifying that the attached files are the same as mentioned in the Acknowledgement Receipt for that application number. The Acknowledgement Receipt and statement will serve as *prima facie* evidence that the resubmitted documents are the same as those submitted on the date of receipt. Note the Acknowledgement Receipt only indicates that the USPTO received what was actually sent, as opposed to what may have been intended to be transmitted. Applicants/ reexamination parties should exercise the same care in preparing and preserving a copy of a submission in electronic form as in paper." (Emphasis added.)

Indeed, no document appears to have been lost. The record of 10/901,284 now contains two copies of the amendment in question, *i.e.*, an amendment that is in the record of the proceeding and a duplicate of the same amendment that has been marked "closed." Both amendments were directed to application number 10/901,284. The record of 10/279,979 contains only the amendment that was copied into 10/901,284: *i.e.*, the duplicate and now closed paper.

Further, MPEP 502 provides that "[T]he 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." Here, it is clear that the N417 paper in question is facially erroneous, since the record for both applications clearly does not contain any item directed to application number 10/729,979. Thus, it appears that the paper filed in 10/729,979 in response to the 1/11/2007 Office action was not a *bona fide* attempt to respond to that Office action. Accordingly, the period for filing a response to the outstanding Office action continued to run from the date upon which the Office action was mailed.[3]

In summary, the showing of record is that this error occurred as a result of a mistake on the part of petitioner, not the USPTO. While it is unfortunate that applicants did not file the correct amendment, the showing of record is that no amendment intended for the subject application was filed on 4 April, 2007. As

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[3] See 37 CFR 1.135(c) and MPEP 710.01.

petitioners have not provided sufficient evidence that an amendment directed to this application was timely filed, the application was properly held abandoned.

Petitioners may wish to consider filing a petition to revive the application, accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[4]

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

By hand: Customer Service Window
Mail Stop Petitions
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

[4] 37 CFR 1.181(f).

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA GA 30339

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NOV 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Yuan-Chang Chin	:	
Application Number: 10/729979	:	DECISION ON PETITION
Filing Date: 12/09/2003	:	
Attorney Docket Number: 251316-1710	:	

This is a decision on the petition filed on October 16, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on April 12, 2007, for failure to timely file a reply to the non-final Office action mailed on January 11, 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 August 3, 2007. The petition to

---

[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.

(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)).

withdraw the holding of abandonment filed on August 9, 2007, was dismissed on September 28, 2007.

Petitioners have filed an amendment as the required reply.

Receipt of the revocation and power of attorney filed on October 16, 2007, is acknowledged.

This application is being forwarded to Technology Center 2174 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

Encl:

Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/729,979	12/09/2003	Yuan-Chang Chin	251316-1710

CONFIRMATION NO. 2209

POA ACCEPTANCE LETTER

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY
STE 1500
ATLANTA, GA 30339

OC000000026726245

Date Mailed: 11/14/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2007.

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.

/diwood/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/729,979	12/09/2003	Yuan-Chang Chin	251316-1710

CONFIRMATION NO. 2209

POWER OF ATTORNEY NOTICE

47390
THOMAS, KAYDEN, HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA, GA 30339

OC000000026726238

Date Mailed: 11/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2007.

- 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).

/diwood/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Masayoshi Iwase	: DECISION ON REQUEST FOR
Patent Number	: 7572537	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/730,017	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **245** 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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JGJr: 09-04

Paper No: __

DICKSTEIN SHAPIRO
MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of:	:	
Raina	:	
Filed: 9 December, 2003	:	DECISION ON PETITION
Application No. 10/730,041	:	
Docket No. M4065.0206/P206-C	:	

This is a decision on the letter, considered as a petition, filed on 6 May, 2004, under 37 C.F.R. §1.53 as a request that the application obtain a filing date of 9 December, 2003, for page numbered 1 (specification: Background of the Invention) of the application.

The Office regrets the delay in addressing this matter.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 9 December, 2003.

On 16 March, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," and indicated that, while a filing date had been granted, "Page(s) 1 of the specification (description and claims)" appeared to have been omitted from the application.

Petitioner responded with a petition on 6 May, 2004, along with, *inter alia*, a copy of the "Page(s) 1 of the specification (description and claims)," and a copy of the date-stamped (9 December, 2003) receipt card indicating, *inter alia*, that the following items had been received by the Office:

* * *

Specification (13 pages)
6 drawings (6 sheets)
Oath or declaration (2 pages)
Preliminary Amendment (8 pages)[1]
Utility Patent Application Transmittal (1 page)

* * *

As is clear from the foregoing, the receipt card (see: MPEP §503[2]) did not specify the pages containing the Specification, Claims and Abstract, however, a review of the record indicates that the Description is contained in pages 1 through 8, the Claims in pages 9 through 12, and the Abstract page 13–and of the pages present in the record (2 through 13), there are no duplicate pages.

---

[1] The number of pages, 8, is inserted by pen or pencil, however, it is noted that a review of the pages on file as of date of deposit, this is constituted by 1 page noted as "preliminary amendment" (page 1 of the document), "amendments to the specification" (page 2 of the document), "amendments to the claims (pages 3 through 6 of the document), and "remarks" (pages 7 through 8 of the document).

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the page 1 of the specification (description: Background of the Invention) of the application was submitted on 9 December, 2003, and subsequently was misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is waived; and the Notice mailed on 16 March, 2004, hereby is withdrawn as to page 1 of the specification (description: Background of the Invention) of the application.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 9 December, 2003, using:

1. pages 2 - 13 (Specification, Claims, Abstract, and 6 sheets of drawings, deposited on 9 December, 2003; and

2. page 1 (Specification: description: Background of the Invention), deposited on 6 May, 2004;

3. with direction to OIPE to correct Office records to reflect that 13 pages of specification (description, claims and abstract) and 6 sheets of drawings were present on filing on 9 December, 2003, and forward to Petitioner a corrected filing receipt setting forth a filing date of 9 December, 2003, reflecting therein that 13 pages of specification (description, claims and abstract) and 6 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

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

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SEP 2 5 2006

OFFICE OF PETITIONS

In re Patent No. 7,014,743	:	
Issued: March 21, 2006	:	
Application No.: 10/730,068	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No: 421/170/13/2/2	:	

This is a regarding the "Notification of Loss of Small Entity Status" filed June 30, 2006, which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

The application file will be directed to the Files Repository.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 23, 2007

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/730096 Patent No.: 7067205 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: _____

3/6/07

JENNIFER MCNEIL
SUPERVISORY PATENT EXAMINER
SPE

1775
Art Unit

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

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Mitica Manu	: DECISION ON REQUEST FOR
Patent Number	: 7580570	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/730,113	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1329** 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/06/2010

Applicant	: Chung-Hsien Lee	: DECISION ON REQUEST FOR
Patent Number	: 7638703	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/730,130	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1784** 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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(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Darko Pervan	:	DECISION DISMISSING PETITION
Application No. 10/730,131	:	UNDER 37 CFR 1.183 AND
Filed: December 9, 2003	:	NOTICE OF ABANDONMENT
Attorney Docket No. 033462-037	:	

This is decision on the petition under 37 C.F.R. 1.183, filed February 16, 2006, to waive the requirements of 37 CFR 1.114(a) that the submission be filed with the Request for Continued Examination (RCE).[1]

On June 21, 2005, the Office mailed a final Office Action, which set a three-month shortened statutory period to reply. On December 21, 2005, applicants submitted a "Request for Limited Suspension of Action under Rule 103(c), an RCE (without a submission), a request for an extension of time for response within the third month, and paid the requisite fees. On February 16, 2006, applicants filed the present petition and a submission pursuant to 37 CFR 1.114(a).

---

[1] 37 CFR 1.114 states, in pertinent part:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

Applicant explains:

> On December 21, 2005, applicant filed a Request for Continued Examination, together with a Request for a Limited Suspension of Action under 37 CFR § 1.103(c) and the proper fees. At the time of filing, applicant's attorney assumed that the Request for a Limited Suspension of Action under Rule 103(c) qualified as the requisite "submission" of 37 CFR § 1.114. That assumption was based, in part, on the language in 37 CFR § 1.114(c), which states that the "submission" includes, *"but is not limited to"*, the documents recited in 37 CFR § 1.114(c).
>
> Applicant's attorney recently became aware of § 709, I, B, 1. (Requirements) of the Manual of Patent Examining Procedure (MPEP), wherein it states that the "request for suspension cannot substitute for the submission". In view of the statement in the MPEP, applicant hereby files a "submission" and petitions the Patent & Trademark Office to retroactively waive the requirement of 37 CFR 1.114(a) that the submission be filed *with* the Request for Continued Examination. It is important to note that in this case, a submission is being filed herewith. Thus, the only requirement that is requested to be waived is the *timing* of the submission.

In essence, applicant requests that the Office permit him to extend the period for filing a response (*i.e.,* the submission) beyond the six-month statutory period set forth in the final Office Action of June 21, 2005. The Office notes that the above-identified application became abandoned on December 22, 2005, for failure to file a timely and proper response within the six-month statutory period for reply.[2] Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[3]

In an extraordinary situation, when justice re-quires, 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. 37 CFR 1.183.

An applicant may extend the shortened period for reply to a final Office Action within the limits of the statutory six-month period; however, no extension can operate to extend the time beyond the six months. An applicant must file a reply prior to the expiration of the period to avoid abandonment of the application as indicated in 35 U.S.C. § 133.

---

[2] See 37 CFR 1.135(a); MPEP 711.02.

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

As indicated above, the USPTO is not permitted to waive the requirements of the statutes. Assuming, *arguendo*, the Office could waive the requirements, equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. See United States v. Lockheed Petroleum Servs., 709 F.2d 1472, 1475 (Fed. Cir. 1983).

Furthermore, where the Office has the power to do so, it should not relax the requirements of established practice to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968). Circumstances resulting from applicants', or applicants' counsel's, failure to exercise due care or to properly apply the patent statutes or rules of practice are not extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pat. 1990).

Accordingly, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of 37 CFR 1.114(a). See Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994)(circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers).

Applicant has a suitable remedy on hand for this predicament that does not require the extraordinary remedy of invoking 37 CFR 1.183. Applicant is reminded that the USPTO will not normally consider an extraordinary remedy when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664 (Comm'r Pat. 1982). Applicant may file a petition to revive the application under 37 CFR 1.137(b) on the basis of 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, 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 was unintentional.

Accordingly, the petition under 37 CFR 1.183 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 1.183." Extensions of time are permitted under 37 CFR 1.136(a).

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

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

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

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

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

Christina T. 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 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Darko Pervan	:	DECISION ON PETITION
Application No. 10/730,131	:	
Filed: December 9, 2003	:	
Attorney Docket No. 033462-037	:	

This is decision on the petition under 37 C.F.R. 1.137(b), filed March 30, 2006, to revive the above-identified application.

On June 21, 2005, the Office mailed a final Office Action, which set a three-month shortened statutory period to reply. On December 21, 2005, petitioner submitted a Request for Limited Suspension of Action under Rule 103(c), an RCE (without a submission), a request for an extension of time for response within the third month, and paid the requisite fees. The above-identified application became abandoned on December 22, 2005, for failure to file a timely and proper response.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and an amendment, made the proper statement of unintentional delay, and paid the petition fee.

This matter is being referred to Technology Center Art Unit 3635.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

WILLIAMS MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

In re Application of
Farooq Ullah Khan
Application No. 10/730,149
Filed: December 7, 2003
Attorney Docket No. 2100.021500

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee, Publication fee and formal drawings in a timely manner in reply to the Notice of Allowance mailed March 20, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 21, 2008.

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, Publication fee and the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/22/2010

Applicant	: Yushi Ono	: DECISION ON REQUEST FOR
Patent Number	: 7631723	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/730,162	: 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 **555** 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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DICKSTEIN SHAPIRO
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK, NY 10036-2714

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
TURGIS et al	:	
Application No.: 10/730,166	:	DECISION ON PETITION
Filing Date: December 5, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: S9025.0227 (C-504CIP)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 31, 2006, which set a three month shortened statutory period for response. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on July 1, 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 March 31, 2006 is accepted as having been unintentionally delayed.

Applicant is advised that 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.

This application is being referred to Technology Center AU 1714 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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JAMES W. HUFFMAN
HUFFMAN LAW GROUP, PC
1832 N. CASCADE AVENUE
COLORADO SPRINGS, CO 80907

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AUG 03 2004
OFFICE OF PETITIONS

In re Application of :
Lundberg :
Application No.: 10/730,169 : ON PETITION
Filing Date: December 5, 2003 :
Attorney Docket No.: CNTR.2117 :

This decision concerns the "Request for Corrected Filing Receipt" filed on December 19, 2003, re-filed on March 15, 2004 and again on July 27, 2004.[1] This correspondence is being properly treated as a petition under 37 CFR 1.10(c) to correct the filing date for the above-referenced application.

The petition is **GRANTED**.

The petition requests an earlier filing date of December 5, 2003 rather than the presently accorded filing date of December 6, 2003, on the basis that the application was deposited on December 5, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10.

The petition is accompanied by a copy of counsel's postcard receipt for this application. This postcard, contrary to the assertion in the petition, is not date-stamped by the USPTO. However, it appears to be postmarked December 6, 2003, indicating that it was likely mailed from the USPTO on that day. This postcard, while showing that an application entitled to a filing date was received by the USPTO, it cannot be relied upon for supporting the requested December 5, 2003 filing date.

Also accompanying the petition is a copy of printout from the USPS official website www.usps.gov (Track & Confirm), showing that a package mailed under USPS "Express Mail" mailing label number "EO001088012US" was accepted by the USPS on December 5, 2003 at 8:42pm. The same mailing label number is also contained in the original application transmittal which itemizes the application papers being mailed on December 5, 2003.

Although a true copy of the mailing label is not enclosed with the petition, there is sufficient information for inferring that this application was deposited in the USPS Express Mail on December 5, 2003. The petition is thus granted.

---

[1] The Office sincerely apologizes for any inconvenience caused by the delay in processing the earlier requests.

No petition fee is owed and none was submitted with the petition.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to December 5, 2003, and for mailing a corrected Filing Receipt reflecting that filing date. Upon completion of pre-examination, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 23, 2006

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 10730182 Patent No.: 6,913,838

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

1775

Art Unit

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Douglas B. Teaney
GREENBERG TRAURIG, P.C.
Suite 2500
77 West Wacker Drive
Chicago, IL 60601

Mail Date: 05/04/2010

Applicant	: Andrew Zador	: DECISION ON REQUEST FOR
Patent Number	: 7609318	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/730,189	: 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 **1604** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/730,200	12/05/2003	2841	824	AO700	8	23	3

CONFIRMATION NO. 2138

CORRECTED FILING RECEIPT

OC000000013626131

Arthur G. Schaier
Carmody & Torrance LLP
50 Leavenworth Street
P.O. Box 1110
Waterbury, CT 06721-1110

Date Mailed: 08/24/2004

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

Applicant(s)

Ronald S. Lizzi, Bethany, CT;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/07/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Wearable electronic device with mode operation indicator

Preliminary Class

368

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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RM 4-1159
BELTSVILLE, MD 20705-5131

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of Jeanette M. Cardamone and Jiming Yao Application No. 10/730,208 Filed: December 8, 2003 For: METHODS OF IMPROVING SHRINK-RESISTANCE OF NATURAL FIBERS, SYNTHETIC FIBERS, OR MIXTURES THEREOF, OR FABRIC OR YARN COMPOSED OF NATURAL FIBERS, SYNTHETIC FIBERS, OR MIXTURES THEREOF	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 14, 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).

The above-identified application was filed on December 8, 2003 without an executed oath or declaration and naming Jeanette M. Cardamone and Jiming Yao as joint inventors.

Accordingly, on March 15, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and surcharge for its late filing.

In response, on June 14, 2004, the instant petition and a one (1) month extension of time were filed.

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), as set forth above.

Rule 47 applicant has failed to show that the inventor cannot be reached. Applicant has stated that calls were made to the telephone number of record and that the non-signing inventor may be in China. A copy of the application papers (specification, claims and drawings) should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g. through e-mail, internet search or the telephone continue to fail, then applicant will have established that the inventor cannot be reached.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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5601 SUNNYSIDE AVE
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BELTSVILLE, MD 20705-5131

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of Jeanette M. Cardamone and Jiming Yao Application No. 10/730,208 Filed: December 8, 2003 For: METHODS OF IMPROVING SHRINK-RESISTANCE OF NATURAL FIBERS, SYNTHETIC FIBERS, OR MIXTURES THEREOF, OR FABRIC OR YARN COMPOSED OF NATURAL FIBERS, SYNTHETIC FIBERS, OR MIXTURES THEREOF	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the papers filed October 8, 2004, which have been treated as a "Request For Reconsideration of Petition Under 37 CFR 1.47(a)."

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 1700 for examination *in due course*.

Telephone inquiries regarding this decision 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
United States Patent and Trademark Office
P.O. Box 1450
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JIMING YAO
371 JONES AVENUE
TORONTO, ONTARIO M4J 3G5
CANADA

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application of
Jeanette M. Cardamone and Jiming Yao
Application No. 10/730,208
Filed: December 8, 2003
For: METHODS OF IMPROVING SHRINK-RESISTANCE OF NATURAL FIBERS, SYNTHETIC FIBERS, OR MIXTURES THEREOF, OR FABRIC OR YARN COMPOSED OF NATURAL FIBERS, SYNTHETIC FIBERS, OR MIXTURES THEREOF

Dear JIMING YAO:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE, MD 20705-5131

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Gregory T. Huber	: DECISION ON REQUEST FOR
Patent Number	: 7576146	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/730,223	: 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 **789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/730,235	12/08/2003	3672	1270	SHEL.105812/TH2389	8	31	5

CONFIRMATION NO. 2517

UPDATED FILING RECEIPT

OC000000012464050

30903
SHOOK, HARDY & BACON L.L.P.
CHASE TOWER, SUITE 1600
600 TRAVIS STREET
HOUSTON, TX 77002-2911

Date Mailed: 04/28/2004

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)

Zhiyi Zhang, Houston, TX;
Bruno Best, Zoetermeer, NETHERLANDS;
Gilberto Toffolo, Agnadello (Cr), ITALY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2004

Projected Publication Date: 06/09/2005

Non-Publication Request: No

Early Publication Request: No

Title

Combined telemetry system and method

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).

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SHELL OIL COMPANY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Zhang et al. :
Application No. 10/730,235 :
Filed: December 8, 2003 :
Attorney Docket No. SHEL.105812/TH2389 :

ON PETITION

This is a decision on the petition under 37 CFR §§ 1.78(a)(6), filed October 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(e) for the benefit of prior-filed provisional Application No. 60/431,360, filed on December 6, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the above-noted, prior-filed provisional application.

The instant pending nonprovisional application was filed on December 8, 2003, and was pending at the time of filing of the instant petition. While a reference to the above-noted, prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The reference may also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application without penalty. On March 15, 2004, petitioner timely submitted a Preliminary Amendment, which incorporated the priority claim to the above-noted, prior-filed provisional application. A corrected Filing Receipt, which included the priority claim, was mailed to the address of record on May 18, 2004.

In view of the above, the $130.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Examiner of Technology Center AU 3672 for appropriate action on the amendment filed March 15, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of prior-filed provisional Application No. 60/431,360.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,260	12/09/2003	Toshifumi Otsubo	2038-310	3334

7590 03/18/2010
LOWE HAUPTMAN GILMAN & BERNER, LLP
Suite 300
1700 Diagonal Road
Alexandria, VA 22314

EXAMINER
HAND, MELANIE JO

ART UNIT	PAPER NUMBER
3761	

MAIL DATE	DELIVERY MODE
03/18/2010	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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LOWE HAUPTMAN GILMAN & BERNER, LLP
Suite 300
1700 Diagonal Road
Alexandria VA 22314

In re Application of:
OTSUBO, TOSHIFUMI
Serial No.: 10/730,260
Filed: Dec. 9, 2003
Docket: 2038-310
Title: PANTS-TYPE DISPOSABLE WEARING ARTICLE

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed July 23, 2009 to review the election of species requirement under constructive restriction promulgated in January 6, 2009 Office action. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

In the July 23, 2009 petition, petitioner requests the examiner to reconsider the election of species requirement of January 6, 2009 and withdrawal of claims 3, 6-14, 16, 18-21 and 24-29 from consideration in the January 6, 2009 Office action. The petitioner contends that the amended non-elected claim 3 of October 21, 2008 merely contains limitations from examined dependent claims 17 and 22. Therefore, there should not be any serious burden in search.

After consulting with the examiner, it was agreed that claims 3, 6-14, 16, 18-21 and 24-29 should be rejoined. The election of species requirement of January 6, 20009 is withdrawn as requested. An Office action on the merits including the rejoined claims will follow in due course. Therefore, the request to withdraw the election of species is hereby granted.

The application is being forwarded to the examiner via the Supervisory Patent Examiner for consideration of Rule 111 amendment filed on July 23, 2009. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Donald T. Hajec, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/8/2007

TO SPE OF : ART UNIT 2800 (2828)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,173,954 B2
Attn: Armando Rodriguez

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward *(IFW) to scanning using document code **COCX**.

***Ok to enter changes to claim 1 as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE — **Art Unit** 2828

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MARSHALL GERSTEIN & BORUN LLP
233 S. WACKER DRIVE
SUITE 6300, SEARS TOWER
CHICAGO, IL 60606

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MAR 1 6 2006

OFFICE OF PETITIONS

In re Application of	:
Kyeong Keun Choi	:
Application No. 10/730,295	: DECISION ON PETITION
Filed: December 8, 2003	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 29936/39864	:

This is a decision on the petition, filed March 9, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\730295.wpd

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/25/06

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/730306** Patent No.: **6899201**

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

703-308-9390 ext. 93

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby: 8/16/06

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: _____

_____

_____

_____

_____

Hugh B. Thompson — **SPE**

3634 — **Art Unit**

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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

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In re Application of
Vasudevan, et al.
Application No. 10/730,349
Filed: December 8, 2003
Attorney Docket No. 016295.1510

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned June 8, 2007 for failure to timely submit a proper reply to the final Office action mailed March 7, 2007. The final Office action set a three month shortened statutory period of time for reply. A reply was filed May 7, 2007, but it failed to place the application in condition for allowance, as indicated by the Advisory Action mailed February 5, 2008. Notice of Abandonment was mailed June 19, 2008.

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

The instant petition lacks requirement (1) set forth above. The petition references the submission of an RCE as the required reply wherein the petition states "RCE (including remarks) is enclosed herewith. A review of the papers submitted September 11, 2008 does not reveal the receipt of a request for continued examination.

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

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

MAILED

FEB 24 2009

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Vasudevan, et al. :
Application No. 10/730,349 :
Filed: December 8, 2003 :
Attorney Docket No. 016295.1510 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 8, 2007 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 7, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed June 19, 2008. A petition under 37 CFR 1.137(b) was filed September 11, 2008 and dismissed December 17, 2008.

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

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

This application is being referred to Technology Center AU 2113 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.

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

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JJGJR.: 08-07

Paper No: __

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OFFICE OF PETITIONS

MORGAN LAW OFFICE
SUITE 203
130 N. HAMILTON ST.
GEORGETOWN KY 40324

In re Application of	:	
Atwood	:	DECISION
Application No.: 10/730,406	:	
Filing Date: 8 December 2003	:	
Attorney Docket No. 169-PA-0103	:	

This is a decision on the petition filed on 31 August, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to non-final Office action mailed on 12 December, 2005, with reply due absent extension of time on or before 12 March, 2006;

- the application went abandoned by operation of law after midnight 12 March, 2006;
- on 12 July, 2006, Petitioner filed a reply in the form of an amendment, however, as previously noted the amendment was untimely and the application was abandoned;
- the Office mailed the Notice of Abandonment 20 July, 2006;
- on 31 August, 2006, Petitioner filed the instant petition (with fee), pointed to a reply in the form of an amendment previously filed, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

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(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]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears as of this writing that Petitioner now has satisfied the regulatory requirements.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) 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

[8] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 05/04/2010

Applicant	: Xiang Liu	: DECISION ON REQUEST FOR
Patent Number	: 7613402	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/730,413	: 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 **1539** 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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DANIEL P. MCCARTHY
P.O. BOX 71550
SALT LAKE CITY UT 84171-0550

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OFFICE OF PETITIONS

In re Application of :
Ronald J. MUFFLER :
Application No. 10/730,422 : DECISION ON PETITION
Filed: December 7, 2003 :
Attorney Docket No. 4435 P :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 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 15, 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) was obtained. Accordingly, the application became abandoned on January 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 election; (2) the petition fee of $ 770; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

It is noted that the statement under 37 CFR 3.73(b) filed concurrently with the petition is defective, because (1) the entry for *Applicant/Patent Owner* listed an address instead of name, (2) the *Filed/Issue date* field includes a patent application number instead of the filing date of the application and (3) no title of the person signing the statement has been provided. With a corrected statement under 37 CFR 3.73(b), the concurrently filed revocation of power of attorney with new power of attorney and change of correspondence address form, which was signed by assignee, would become ratified. 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.

Any questions concerning this matter may be directed to Quyen Leung at (571) 272-6051 or in her absence the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2629 for appropriate action on the concurrently filed election.

David A. Bucci
Petitions Examiner
Office of Petitions

cc: **EVERETT D. ROBINSON**
ECHELON IP, LLC
P.O. BOX 1047
AMERICAN FORK, UT 84003-1047

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
James R. Lundberg	:	
Application No. 10/730,425	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. CNTR.2118	:	

This is a decision on the petition, filed May 8, 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 11, 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 2819 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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COLORADO SPRINGS, CO 80907-7449

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JUN 2 4 2005

OFFICE OF PETITIONS

In re Application of
James R. Lundberg
Application No. 10/730,425
Filed: December 5, 2003
Attorney Docket No. CNTR.2118

ON PETITION

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed June 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 June 5, 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 2819 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon

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

---

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

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THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON TX 77057

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DEC 21 2006
OFFICE OF PETITIONS

In re Application of	:	
James J. Miller, et al.	:	
Application No. 10/730,431	:	DECISION ON PETITION
Filed: December 8, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. Miller-001:CIP	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 9, 2006, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is GRANTED.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a declaration by a doctor that the inventor James J. Miller was diagnosed with multiple myelona and might not be available to assist in the prosecution of the application if the disease were to run its normal course. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3643 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ALBEMARLE CORPORATION
PATENT DEPARTMENT
451 FLORIDA STREET
BATON ROUGE LA 70801

In re Application of	:	
Plantenga et al.	:	
Application No. 10/730,433	:	DECISION ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. ACH2977 US	:	

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

The petition is **DISMISSED.**

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action, which was mailed on February 5, 2008. The final Office Action set a three (3) month shortened statutory period for reply. An amendment, request for one-month extension of time were submitted on May 12, 2008. In response to the amendment an Advisory Action was mailed on June 13, 2008 indicating the amendment submitted on May 12, 2008 did not place the application in condition for allowance. Accordingly, this application became abandoned on June 6, 2008. A Notice of Abandonment was mailed on August 10, 2009.

Petitioner contends that a reply to the Advisory Action was not made because the Advisory Action was not received because it was mailed to the incorrect address. Petitioner argues they were unable to ascertain that the response to the final Office action was not entered and accepted as placing the application in condition for allowance.

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

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a). The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioner's argument has been considered, but it is not persuasive. The failure to receive the advisory action and the Notice of Abandonment did not make the abandonment unavoidable. 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).

As 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See MPEP 711.03(c).

Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
The application is properly held abandoned.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned

application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 petition fee.

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

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALBEMARLE CORPORATION
PATENT DEPARTMENT
451 FLORIDA STREET
BATON ROUGE LA 70801

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FEB 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Plantenga et al	:	
Application No. 10/730,433	:	DECISION ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. ACH2977 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a previously filed RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed February 5, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received September 11, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS, SUITE 2250
100 SOUTH FIFTH STREET
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of Robert Walker Application No. 10/730,443 Filed: December 8, 2003 Attorney Docket No. 2003P54210US/I331.124.101	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 November 14, 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

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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JUL 16 2008

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

In re Application of :
Steve J. Shattil :
Application No. 10/730,452 : ON PETITION
Filed: December 8, 2003 :
Attorney Docket No. 27592-00403-US5 :

This is a decision on the petition filed April 7, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed November 29, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 1, 2008.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/19/08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10730452 Patent No.: 7418043 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

X Approved	All changes apply.
❑ Approved in Part	Specify below which changes do not apply.
❑ Denied	State the reasons for denial below.

Formatted: Indent: Left: 1.22"

Comments: _____

SPE _____ Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/19/08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10730452 Patent No.: 7418043 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE **Art Unit**

United States
Patent And
Trademark Office

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

PETITION DECISION

02/27/04

Thomas D. Helmholdt
Young, Basile, Hanlon, MacFarlane, Wood & Helmholdt, P.C.
3001 West Big Beaver Rd, Suite 624
Troy, Michigan 48084-3107

Dear Applicant:

The Box PGPub replacement drawings for application number 10/730457 received on 01/21/04 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, at 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
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Thomas D. Helmholdt
Young & Basile, P.C.
Suite 624
3001 West Big Beaver Road
Troy, MI 48084

MAILED

JUN 07 2005

Director's Office
Group 3700

In re application of
Bethan O'Neill

Serial Number: 10/730,457
Filed: December 08, 2003

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **SLEEVE EXTENDING THROUGH A FLEXIBLE MATERIAL SIDE WALL OF AN OUTDOOR ENCLOSURE FOR RECEIVING AN AIR CONDITIONER**

The above-identified application is withdrawn from issue after payment of the issue fee to permit reopening of prosecution. The examiner will communicate an office action to you.

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

Telephone inquiries should be directed to Cheryl Tyler at (571) 272-4834.

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

Richard A. Bertsch

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

rt/ 6/7/05

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,459	12/08/2003	Mark J. Levine	930009-2010	2911

20999 7590 12/24/2009
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER
PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
12/24/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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12/24/09

glm

In re application of	:	
Levine et al.	:	DECISION
Serial No. 10/730,459	:	GRANTING
Filed: December 8, 2003	:	PETITION
For: HYDROENTANGLING USING A	:	
FABRIC HAVING FLAT FILAMENTS	:	

This is a decision on the PETITION FROM REQUIREMENT FOR RESTRICTION UNDER 37 CFR 1.144, filed on November 25, 2009.

In an action dated January 8, 2009, the examiner held claims 1-13 non-elected as being distinct from the originally elected invention. Following an unsuccessful request for reconsideration, the holding was repeated and made final in the final rejection of August 25, 2009. The instant petition was then timely filed on November 25, 2009 and is before the Director of Technology Center 1700 for consideration. The petition requests the requirement be withdrawn and that a new action be issued which examines claims 1, 2, 4, 6-8, 13, and 23-27 (claims 3, 5, 9-12, 24 and 28 being withdrawn per an earlier restriction/election requirement).

The petition is **GRANTED** for the reasons below.

DECISION

The examiner contends the elected invention is directed to the subcombination of a hydroentangling support fabric whereas amended claims 1-13 are directed to a combination, namely a hydroentangling apparatus comprising a hydroentangling support fabric.

As explained in MPEP 806.05(c), two-way distinctness is necessary to support a restriction between combination and subcombination. Such distinctness is not present in the instant claims, as is readily apparent by comparing combination claim 1 with subcombination claim 23:

Claim 1. A hydroentangling apparatus for the production of a hydroentangled nonwoven product, the improvement comprising:

a hydroentangling support fabric comprising flat filaments, wherein said support fabric is in a continuous loop or made endless.

Claim 23. An improved hydroentangling support fabric in a hydroentangling apparatus for production of a hydroentangled nonwoven product, the improvement comprising:

a hydroentangling support fabric comprising flat filaments, wherein said support fabric is in a continuous loop or made endless.

Each and every limitation of claim 23 is present in claim 1 *verbatim*. Accordingly the claims are not patentably distinct from each other and restriction is improper.

Further, the examiner has not shown any burden in examining both sets of claims, particularly given that apparent combination claims have been examined multiple times in earlier actions.

Accordingly, the petition is **GRANTED.**

As the final rejection of August 25, 2009 is incomplete for failing to examine all properly pending claims, it is hereby VACATED.

The examiner is instructed to promptly issue a new Office action which treats claims 1, 2, 4, 6-8, 13, and 23-27 on the merits.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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POLSINELLI SHALTON WELTE SUELTHAUS P.C.
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

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JUL 12 2005
OFFICE OF PETITIONS

Applicant: Du et al.
Appl. No.: 10/730,476
Filing Date: December 8, 2003
Title: COMPOSITIONS AND METHODS FOR CLEAVING IAP
Attorney Docket No.: 65015
Pub. No.: US 2004/0171105 A1
Pub. Date: September 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 29, 2004, for the above-identified application.

The request is granted.

Applicants have been advised to file applications having cleaner text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

Some of the text in the application is small, which makes it blurry and not clear, which also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

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

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BEVERLY HILLS CA 90212

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OFFICE OF PETITIONS

In re Application of	:
Todd A. Brady	:
Application No. 10/730,480	: DECISION ON
Filed: 1 November, 2004	: PETITION
Atty Docket No. 00-8-1387	:

This is a decision in reference to the petition filed on 1 November, 2004, under 37 CFR 1.10, which is treated as a petition under 37 CFR 1.53(e) requesting that the above identified application be accorded a filing date of 2 October, 2004.

The petition is **dismissed**.

On 1 October, 2002, the application was deposited, without drawings.

Accordingly, on 14 October, 2004, Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application had been deposited without drawings. The Notice also stated that the oath or declaration was missing.

In response, on 1 November, 2004, petitioner filed the present petition, accompanied by seven (7) sheets of drawings, and an executed declaration.

Petitioner asserts that the drawings were filed on 2 October, 2004. In support, petitioner has provided a copy of Express Mail customer label No. EV192360186US showing a "date-in" of 2 October, 2004.

Petitioner's evidence has been considered, but is not persuasive.

No drawings for this application were filed on 2 October, 2004, since no drawing figures were received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes the drawings were filed on 2 October, 2004, is not more persuasive than the actual papers shown to have been received in the official file.

Petitioner has not provided sufficient evidence to link the Express Mail number found on the Express Mail label to the drawings deposited on 1 November, 2004. If petitioners have such evidence, such as a transmittal sheet filed with the drawings itemizing the filing of the drawings and containing the Express Mail label number, such evidence should be filed with a renewed petition.

The application will be processed with a filing date of 1 November, 2004, using the specification, including the claims, and seven (7) sheets of drawings filed on that date.

As no fee is due for petitions filed under 37 CFR 1.10, the petition fee will be refunded to counsel's deposit account, No. 50-0703.

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

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

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

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

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of 1 November, 2004 using the originally deposited application papers and the drawings filed on 1 November, 2004.

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

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of :
Brownlie :
Application No.: 10/730,502 : DECISION GRANTING PETITION
Filed: December 8, 2003 :
Attorney Docket No.: RBRO-1-CIP :
FOR: INTERFACE PADS WITH ADJUSTABLE :
VALVES

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on November 7, 2005.

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

The above-identified application became abandoned for the alleged failure to timely reply to the non-final Office action, mailed November 17, 2004, which set a period for reply of three (3) months. The Office considered the application abandoned on February 18, 2005. A Notice of Abandonment was mailed on August 12, 2005.

Petitioner alleges that a timely reply in the form of a terminal disclaimer and response to the Office action was timely mailed on February 16, 2005. A review of the application file reveals that a reply was received in the Office on February 22, 2005 (certificate of mailing date February 16, 2005). The terminal disclaimer fee cited in the terminal disclaimer was missing. However, authorization to charge deposit account no. 02-0910 for any additional fees has been present since the application was filed. Therefore, the Office had authority to charge the statutory disclaimer fee due on certificate of mailing date February 16, 2005, which was within the period for response.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter. Deposit account no. 02-0910 will be charged the required $65.00 statutory disclaimer fee that should have been charged on certificate of mailing date February 16, 2005.

After the mailing of this decision, the application will be returned to Technology Center AU 3644 for consideration of the February 22, 2005 (certificate of mailing date February 16, 2005) reply to the November 17, 2004 non-final Office action.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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100 BAYER ROAD
PITTSBURGH PA 15205

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of
Bolton et al.
Application No. 10/730,518
Filed: December 8, 2003
Attorney Docket Number: MO5696CN/MD-00-06CN
Title of Invention: Compatible Blend of Polycarbonate with Vinyl (Co)polymer

ON PETITION

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed September 20, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 21, 2005. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Laughlin et al.	:	
Application No. 10/730,549	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. CWRU-P01-046	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on May 24, 2006, 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 **GRANTED**.

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.

The instant petition includes a statement from an attorney of record. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 1651 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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TECHNOLOGY CENTER 3600

Elizabeth D. Odell
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of
Judith C. Blackwell-Thompson et al.
Application No. 10/730,566
Filed: December 8, 2003

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: SYSTEM AND METHODS FOR INTEGRATING A PAYLOAD WITH A LAUNCH VEHICLE

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 May 4, 2005 and a Supplemental Petition to Withdrawal the Holding of Abandonment filed on January 20, 2006.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed September 22, 2004, which set a three-month shortened statutory period. No response was received and a Notice of Abandonment was mailed on April 26, 2005.

Petitioner contends that a response was filed on December 22, 2004. In support thereof, petitioner submits, a copy of the response and a copy of a transmittal form which includes a certificate of mailing dated December 22, 2004. The transmittal form indicates that an amendment is included.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

The petition included a copy of the original response and a transmittal form with a certificate of mailing including the date of signing and a statement by Elizabeth D. Odell which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since this application was abandoned for failure to timely reply to the nonfinal Office action of September 22, 2004, the Examiner had no procedural authority with respect to the abandoned application. See Lorenz v. Finkl, 333 F.2d 885,891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition withdrawing the holding of abandonment. Nevertheless, in view of this decision on petition, the subsequent actions taken by the examiner, i.e., Final rejection (9/9/2005) and Advisory Action (11/29/2005), have been ratified. In view thereof, it is unnecessary to either vacate or remail the Final rejection and Advisory Action.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/bkg: 1/31/06

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OFFICE OF PETITIONS

In re Application of	:	
Sang-Dong Lee et al	:	
Application No. 10/730,594	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 5000-1-489	:	

This is a decision on the petition filed June 30, 2006, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

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

A review of the file record discloses that a Notice of Allowance was mailed on June 2, 2006, with the issue fee being due on or before September 5, 2006. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of June 2, 2006, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

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

This matter is being referred to Technology Center Art Unit 2873.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of	:
Takeishi, et al.	: DECISION ON PETITION
Application No. 10/730,638	:
Filed: December 8, 2003	:
Atty. Dkt. No.: 5576-156	:

This decision is in response on the "PETITION TO ACCORD THE PROPER FILING DATE," filed March 22, 2004, under 37 CFR 1.10(c) to accord the above-identified application a filing date of December 8, 2003.

Petitioner alleges that the application was deposited in Express Mail service December 8, 2003. As supporting evidence, petitioner has provided a copy of an Express Mail label bearing tracking number EV193584415US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file) and a "date-in" of December 8, 2003. Petitioner has also provided a copy of a USPS "Track & Confirm" report, which indicates that a package bearing Express Mail, label No. EV193584415US was accepted by the USPS on December 8, 2003 and delivered to the United States Patent and Trademark Office on December 9, 2003.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of December 8, 2003 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/730,638	12/08/2003	1754	1060	5576-156	5	8	3

CONFIRMATION NO. 3023

CORRECTED FILING RECEIPT

OC000000013041393

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 06/24/2004

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

Applicant(s)

Kaoru Takeishi, Hamamatsu-shi, JAPAN;
Kosei Yamamoto, Hamamatsu-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-054413 02/28/2003

If Required, Foreign Filing License Granted: 03/10/2004

Projected Publication Date: 09/30/2004

Non-Publication Request: No

Early Publication Request: No

Title

Dimethyl ether steam reforming catalyst and method for producing the same

Preliminary Class

502

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

GRANTED

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

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

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

NOT GRANTED

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

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/05/2010

Applicant	: Dale E. Redford	: DECISION ON REQUEST FOR
Patent Number	: 7647684	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/730,648	: 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 **1528** 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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CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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OFFICE OF PETITIONS

In re Application of	:
Michael A. Friedman et al	:
Application No. 10/730,655	: DECISION ON PETITION
Filed: December 8, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MSFT-2939/167451.02	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 27, 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 amendment filed September 24, 2007.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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).

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
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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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2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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OFFICE OF PETITIONS

In re Application of :
Michael A. Friedman et al :
Application No. 10/730,655 : DECISION ON PETITION
Filed: December 8, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MSFT-2939/167451.02 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 1, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2178 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/730,655	12/08/2003	2178	770	MSFT-2939/167451.02	14	1

CONFIRMATION NO. 2975

CORRECTED FILING RECEIPT

41505
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC000000030236221

Date Mailed: 05/30/2008

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 submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael A. Friedman, Sammamish, WA;
Timothy D. Lacy, Duvall, WA;
Brendan McKeon, Seattle, WA;

Assignment For Published Patent Application

Microsoft Corporation

Power of Attorney: The patent practitioners associated with Customer Number 41505

Domestic Priority data as claimed by applicant

This application is a DIV of 09/775,033 02/01/2001

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/730,655**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for providing universal remote control of computing devices

Preliminary Class

345

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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1009 THINK PLACE
BUILDING ONE, 4TH FLOOR 4B6
MORRISVILLE, NC 27560

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OFFICE OF PETITIONS

In re Application of	:	
YOSHIYAMA et al	:	
Application No.: 10/730,672	:	DECISION ON PETITION
Filing Date: December 8, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: JP920030012US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 April 13, 2006, which set a three month shortened statutory period for response. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on July 14, 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 and 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 April 13, 2006 is accepted as having been unintentionally delayed.

Applicant is advised that 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.

In addition, 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. The Office will not undertake dual correspondence.

This application is being referred to Technology Center AU 2115 for appropriate action on the reply in due course.

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

cc: Joseph P. Lally
Lally & Lally, L.L.P.
P.O. Box 684749
Austin, TX 78768-4749

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Douglas J. Christensen
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South Eighth Street
Minneapolis MN 55402-2100

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OFFICE OF PETITIONS

In re Patent No. 7,100,986	:	
Issue Date: September 5, 2006	:	
Application No. 10/730,693	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 2418.63US01	:	

This is a decision on the petition filed November 3, 2006 (certificate of mailing date November 1, 2006), which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Any request for reconsideration should be filed within two months of the mail date of this decision.

Petitioner requests issuance of a certificate of correction in the name of " Toyota Boshoku Kabushiki Kaisha."

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 [emphasis added]. *See also* MPEP 1481.01.

The petition is dismissed because petitioner has not filed a formal request under 37 CFR 3.81(b) and the $130.00 processing fee associated with it and petitioner has not stated that the assignment

was submitted for recordation as set forth in § 3.11. Please provide a reel and frame number for the assignment with any reconsideration petition.

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

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

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

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

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Karl Rafeld
Application No. 10/730,700
Filed: December 8, 2003
Attorney Docket No. KWO-18502/01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on October 12, 2005, for failure to submit within three months, a proper and timely response to the final Office action mailed on July 11, 2005. By Advisory Action dated October 13, 2005, petitioners were informed that the reply to the Final Office Action, filed September 29, 2005, did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed February 22, 2006.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3643 for processing of the RCE and submission.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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)).

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COLORADO SPRINGS, CO 80907-7449

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OFFICE OF PETITIONS

In re Application of	:	
James R. Lundberg	:	
Application No. 10/730,703	:	DECISION GRANTING PETITION
Filed: December 5, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CTR.2196	:	

This is a decision on the petition, filed May 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 April 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
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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OFFICE OF PETITIONS

In re Application of :
Piechowiak et al :
Application No. 10/730,742 : ON PETITION
Filed: December 8, 2003 :
Attorney Docket No. 82986 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

---

[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.

37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(c) and (D). The instant petition lacks item(s) (1).

Petitioner did not fully comply with the required item(s) in the Notice To File Missing Parts Of Nonprovisional Application mailed March 10, 2004. Namely, a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

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

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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

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OFFICE OF PETITIONS

In re Application of	:	
Piechowiak et al	:	
Application No. 10/730,742	:	DECISION GRANTING PETITION
Filed: December 8, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 82986	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed March 10, 2004, which set a period for reply of two (2) months. Accordingly, the above-identified application became abandoned on May 11, 2004.

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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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Todd M. Gehring, et al. :
Application No. 10/730,745 :
Filed: December 8, 2003 :
Attorney Docket No. 066042-9341-02 :

This is a decision on the petition, filed June 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 23, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated May 22, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center AU 3723 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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SUITE 6000
SCOTTSDALE AZ 85251

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OFFICE OF PETITIONS

In re Application of	:
Gueorghuli Stantchev, Jason Elder and Egidio Cianciosi	: DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)
Application No.10/730,746	:
Filed: December 7, 2003	:
Attorney Docket Number: CYGNUS.0100	:
Title of Invention: METHODS AND APPARATUS FOR IMAGING	:

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

The petition is GRANTED.

Petitioner has shown that the non-signing inventor can not be reached or located and diligent effort has been used to locate the inventor. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventor Cianciosi. The search for the non-signing inventor proved unsuccessful.

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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OFFICE OF PETITIONS

In re Application of :
Akira Ichihashi et al :
Application No. 10/730,784 : ON PETITION
Filed: December 8, 2003 :
Attorney Docket No. 524941/0023

This is a decision on the petition filed, March 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 February 14, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

TOPE-McKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY
#311
MALIBU, CA 90265

In re Application of:
Patricia Keaton and Amit K. Roy Chowdhury
Application No. 10/730,789
Filed: December 8, 2003
Title of Invention: METHOD AND APPARATUS FOR GENERATING THREE-DIMENSIONAL MODELS FROM UNCALIBRATED VIEWS

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 CFR 1.47(a), filed August 16, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 8, 2003, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on December 19, 2003, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor, Amit K. Roy Chowdhury, cannot be reached to join in the application. In

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support of this assertion, Applicant's have demonstrated diligent effort to reach the nonsigning inventor. However, a review of the oath/declaration filed with the instant petition reveals that ine nonsigning inventors name has been mis-spelled as "Chowdry".

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), Applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. The oath or declaration must identify the inventive entity. A properly executed oath or declaration 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: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

TOPE-McKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY
#311
MALIBU, CA 90265

In re Application of:
Patricia Keaton and Amit K. Roy Chowdhury
Application No. 10/730,789
Filed: December 8, 2003
Title of Invention: METHOD AND APPARATUS FOR GENERATING THREE-DIMENSIONAL MODELS FROM UNCALIBRATED VIEWS

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed January 23, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

Background

The above-identified application was filed on December 8, 2003, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on December 19, 2003, requiring *inter alia*, a properly signed oath or declaration.

A petition filed by applicant on August 16, 2004, was dismissed in a Decision mailed September 22, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.47.

Applicant files the instant Request for Reconsideration of Petition and an unexecuted oath/declaration that corrects the spelling of the nonsigning inventor's name[1].

The petition is **granted**.

[1] Applicant is strongly advised to file an application data sheet or a supplemental application data sheet to correct a typographical or transliteration error in the spelling of an inventor's name. If applicant merely files a statement notifying the Office of the typographical or transliteration error in the spelling of an inventor's name without submitting an application data sheet or a supplemental application data sheet, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet. *See* MPEP 601.05.

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

Petitioner has shown that the non-signing inventor, Amit K. Roy Chowdhury, refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Mr. AMIK K. ROY CHOWDHURY
6600 BELCREST ROAD
APT. M
HYATTSVILLE, MD 20786

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DEC 06 2004
OFFICE OF PETITIONS

In re Application of:
Patricia Keaton and Amit K. Roy Chowdhury
Application No. 10/730,789
Filed: December 8, 2003
Title of Invention: METHOD AND APPARATUS FOR GENERATING THREE-DIMENSIONAL MODELS FROM UNCALIBRATED VIEWS

LETTER

Dear Mr. Chowdhury:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney Advisor
Office of Petitions

cc: TOPE-McKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY
#311
MALIBU, CA 90265

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MIDDLE & HOFFBERG, LLP
SUITE 460
10 BANK STREET
WHITE PLAINS, NY 10606

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Zugibe et al. :
Application No. 10/730,791 :
Filed: December 9, 2003 : ON PETITION
Title of Invention: :
METHOD AND APPARATUS FOR :
OPTIMIZING REFRIGERATION :
SYSTEMS :

This is a decision on the Petition to Revive, filed December 13, 2004. The petition is properly treated under 37 CFR 1.181.

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 March 10, 2004. The Notice set a two (2) 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 11, 2004. A Notice of Abandonment was mailed on December 7, 2004.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply to the Notice was filed on March 18, 2004, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, a Response to the Notice and 8 sheets of drawing Figures 1-9 by this Office on December 9, 2004.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, a Response to the Notice and 8 sheets of drawing Figures 1-9 by this Office on December 9, 2004.

"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 foregoing, the holding of abandonment is hereby withdrawn. The petition is granted.

No fee has been charged and none is due.

The application will be referred to the Office of Initial Patent Examination for correction of Office records to indicate that a Response to the Notice and 8 sheets of drawings, Figures 1-9, were timely filed in this Office on March 18, 2004 and for further processing in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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16690 CHAMPION FOREST DR.
SPRING, TX 77379-7023

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OFFICE OF PETITIONS

In re Application of	:	
Martin et al.	:	
Application No. 10/730,792	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. SHAF 207	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 17, 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 May 18, 2004. A Notice of Abandonment was mailed on December 9, 2004.

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ROBERT KELLEY ROTH
MILLER, CANFIELD, PADDOCK AND STONE
150 W. JEFFERSON
SUITE 2500
DETROIT MI 48228

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OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,915,799 :
Issue Date. July 12, 2005 :
Application No. 10/730,798 :
Filed: December 5, 2003 :
Attorney Docket No. 109044-00006 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on March 10, 2009.

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

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

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is signed on the behalf of the assignee and fails to comply with the requirements of 37 CFR 3.73(b).

37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

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

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office 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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ANDY BREEDEN
COMPUTER PACKAGES INC.
414 HUNGERFORD DRIVE 3RD FL.
ROCKVILLE, MD 20850

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SCHWARTZ LAW FIRM, P.C.
6100 FAIRVIEW ROAD
SUITE 530
CHARLOTTE NC 28210

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OFFICE OF PETITIONS

In re Application of :
Park et al. :
Application No. 10/730,805 : ON PETITION
Filed: December 9, 2003 :
Attorney Docket No. 122/20 :

This is a decision on the "Supplemental Petition To Correct Filing Receipt," filed October 24, 2005, requesting that the above-identified application be accorded a filing date of December 9, 2003, rather than the presently accorded filing date of December 8, 2003.

On March 15, 2004, applicant filed a "Petition To Correct Filing Receipt," asserting that the filing receipt contained an error with respect to the filing date of the above-identified application. The petition stated that Jeff J. Schwartz, attorney for applicant, deposited the application on December 8, 2003, as evidenced by the enclosed Express Mail label No. ER419457513US. The same Express Mail label number was placed on the original application papers located in the official file. On July 7, 2005, the Office mailed a corrected filing receipt, indicating a filing date of December 8, 2004. On October 11, 2005, applicant averred that the corrected filing receipt contained an error with respect to the filing date. Applicant requested that the Office correct the filing date from December 8, 2004 to December 8, 2003. Thereafter, on October 19, 2005, the Office mailed a second corrected filing receipt, indicating a filing date of December 8, 2003.

On October 24, 2005, applicant filed the present petition, requesting that the Office accord the application a filing date of December 9, 2003. Applicant stated that in the prior petitions, applicant incorrectly asserted a filing date of December 8, 2003; the date the application was placed in an Express Mail drop box. Applicant explained that applicant typed the date "12/8/05" in the date-in box on Express Mail label No. ER419457513US. Applicant further explained that the handwritten "9" superimposed over the typed "8" that appeared in the date-in box on the Express Mail label (a correction applicant believed was made by a USPS employee) served as evidence that the USPS did not receive the application package until December 9, 2003.

Initially, the Office notes that the date-in should be entered by a USPS employee, and not by applicant. "The reason the USPTO considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label." MPEP 513. If an applicant enters the date-in on the Express Mail label, the date of deposit can no longer be verified by a disinterested person. Moreover, such an action by an applicant brings into question the reliability of the evidence submitted to show that the applicant filed the correspondence as of the date of deposit in the USPS as Express Mail.

Nevertheless, after inquiring with the USPS, the USPTO received a Track & Confirm email, indicating that the USPS accepted a package bearing Express Mail label No. ER419457513US on December 9, 2003, at 12:40 AM, in Charlotte, NC 28228.

In view of the information provided in Track & Confirm email by the USPS, the petition is **granted**. In the future, the Office suggests that applicant provide such documentary evidence with any petition in which applicant is asserting a discrepancy in the filing date accorded to an application. Furthermore, the Office strongly suggests that applicant refrain from entering the date-in on any Express Mail labels, but rather allow a USPS employee to insert that information.

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to December 9, 2003, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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STEVEN H. ARTERBERRY, ESQ.
DORSEY & WHITNEY LLP
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

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OFFICE OF PETITIONS

In re Application of	:	
Nathan R. Brown	:	DECISION ON PETITION
Application No. 10/730,813	:	TO WITHDRAW
Filed: 8 December, 2003	:	HOLDING OF ABANDONMENT
Atty Docket No. 500200.06	:	
(29285/US/5)	:	

This is a decision on the petition filed 15 August, 2005, requesting withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed 16 June, 2004. Notice of Abandonment was mailed on 29 June, 2005.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped 13 September, 2005, acknowledging receipt of a response in the form of an Amendment. A copy of the amendment is included with the present petition. Additionally the copy of the amendment contains a certificate of mailing in accordance with 37 CFR 1.8, dated 8 September, 2004, signed by Carolyn L. Ross.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, MPEP 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to Technology Center Art Unit 3723 technical support staff for entry of the amendment. Thereafter, the application file will be forwarded to the examiner for action in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DOUGLAS E. DENNINGER
U.S. SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP
150 GLOVER AVENUE
NORWALK, CT 06856

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Eric R. Cosman	:	
Application No. 10/730,826	:	DECISION ON PETITION
Filed: December 8, 2003	:	TO WITHDRAW
Attorney Docket No. 2541 FWC 4 DIC CIP CON 3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40, filed March 10, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Mark Farber 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. § 1.136(b) is not applicable.

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

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

This application is being referred to Technology Center AU 3763 to wait a reply to the non-final Office action mailed January 12, 2006.

Amelia Au
Petitions Examiner
Office of Petitions

cc: CLARKE A. WIXON
DARBY & DARBY
707 WILSHIRE BLVD., 32ND FLOOR
LOS ANGELES, CA 90017

DATE 10/3/07 APPLICATION NUMBER 10/730826

DOC CODE PET. DEC. TC DOC DATE ~~OCT 0 4 2007~~

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

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OFFICE OF PETITIONS

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

In re Application of
Eric R. Cosman
Application No. 10/730,826
Filed: December 8, 2003
Attorney Docket No. 73446

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed July 24, 2006. A Notice of Abandonment was mailed on April 26, 2007. In response, on May 30, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3737 for appropriate action by the Examiner in the normal course of business on the reply received May 30, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MORGAN & FINNEGAN LLP
345 PARK AVENUE
NEW YORK NY 10154

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OFFICE OF PETITIONS

In re Application of	:	
Norbert Brun, Joel Leleve	:	
Application No. 10/730,829	:	
Filed: December 8, 2003	:	DECISION ACCORDING STATUS
Attorney Docket No. 1948-4827	:	UNDER 37 CFR 1.47(a)

This is in response to the "DECLARATION OF FACTS IN SUPPORT OF FILING ON BEHALF OF NON-SIGNING INVENTOR (37 C.F.R. § 1.47(a))", filed May 10, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on December 8, 2003, without a fully executed oath or declaration. Accordingly, on March 10, 2004, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application", requiring a fully executed oath or declaration as well as the surcharge for its late filing. This notice set a shortened statutory period for reply of two months.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that inventor Brun was mailed a copy of the application papers on April 10, 2003. However, according to Rule 47 applicant, no executed declaration was returned.

On petition, Rule 47 applicant has 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 last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The $130 petition fee has been charged to Deposit Account No. 13-4500, as authorized.

The application file is being forwarded to Group Art Unit 2875 for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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JEFFREY C. HOOD ESQ.
MEYERTONS HOOD KIVLIN KOWERT & GOETZEL P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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OFFICE OF PETITIONS

In re Application of	:	
Sayyarrodsari et al.	:	
Application No. 10/730,835	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 5650-03500	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed February 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/431,821, filed December 9, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on December 9, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the oath or declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii).

However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §

1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the oath filed with the application, as shown by its inclusion on the filing receipt.

It is noted on the oath or declaration submitted with the instant petition that the claim for priority is being corrected to a benefit claim under 35 U.S.C. 119(e) rather than under 35 U.S.C. 120 as it was previously listed on the oath or declaration submitted on the application filing date. Petitioner is permitted to correct the benefit claim during the pendency of the application by submitting an amendment changing the first sentence of the specification. A petition under 37 CFR 1.78(a)(6) and the surcharge are not required because the Office was able to correctly schedule the application for publication with the relationship given.

In view of the above, the $1370.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 2121 for appropriate action on the amendment filed February 11, 2005, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of prior-filed Provisional Application No. 60/431,821.

Frances Hicks

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

---

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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MEYERTONS HOOD KIVLIN KOWERT & GOETZEL P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of	:	
Sayyarrodsari et al.	:	
Application No. 10/730,835	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 5650-03500	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 27, 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 payment of the issue and 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Nam-Ki Min	: DECISION ON REQUEST FOR
Patent Number	: 7660404	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/730,853	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

COPY MAILED
SEP 25 2008

In re Application of Singhal et al. Application Number: 10/730878 Filing Date: 12/09/2003 Attorney Docket Number: 1023-334US01	: : : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment, filed on August 20, 2008.

The petition is **GRANTED**.

The application was held abandoned for failure to timely a reply to the non-final Office action mailed on January 17, 2008, which set a three (3) month shortened statutory period for reply. The filing of the subject petition precedes the mailing of Notice of Abandonment.

Petitioners assert that a timely response, including an amendment, was filed by facsimile on April 11, 2008.

In support, petitioners have provided a copy of the amendment and extension of time asserted to have been timely filed. Additionally, a copy of the sending unit's transmission report and the USPTO Auto-Reply Facsimile Transmission report, showing that 17 pages, including the cover page of the reply, were filed on April 11, 2008. Petitioners have also provided a copy of the transmittal page, containing a certificate of transmission signed by Patricia Cygan and dated April 11, 2008, as well as a statement, signed by Ms. Cygan, stating that the amendment was transmitted by facsimile to the USPTO on April 11, 2008.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

As petitioners have provided convincing evidence that a response to the non-final Office action mailed on January 17, 2008, was transmitted to the USPTO on April 11, 2008, 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>.

The application is referred to Technology Center Art Unit 3762 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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AUG 04 2008

OFFICE OF PETITIONS

LEE WEINSTEIN
32A FAIRMONT STREET
ARLINGTON MA 02474

In re Application of :
Toland :
Application No. 10/730,906 : DECISION ON PETITION
Filed: October 30, 2002 :
For: COLOR IDENTIFICATION SYSTEM :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 27, 2007 for failure to reply in a timely manner to the non-final Office action mailed, March 26, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed October 5, 2007

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

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

This application is being referred to Technology Center AU 3711 for appropriate action by the Examiner.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/730,906	10/30/2002	Alix T. Toland	

CONFIRMATION NO. 3097

POA ACCEPTANCE LETTER

28731
LEE WEINSTEIN
32A FAIRMONT STREET
ARLINGTON, MA 02474

OC000000031355240

Date Mailed: 08/04/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/17/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/ambrown/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/730,906	10/30/2002	Alix T. Toland	

CONFIRMATION NO. 3097

POWER OF ATTORNEY NOTICE

Cari & Offenberg
Attorneys at Law
494 Broadway
Newport, RI 02840

OC000000031355239

Date Mailed: 08/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/17/2008.

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

/ambrown/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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JUL 03 2007

OFFICE OF PETITIONS

In re Application of	:	
UNBEHAGEN, Paul	:	
Application No. 10/730,914	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. **E071 1010.1**	:	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 31, 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 Greg Wallace 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 June 14, 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: **PAUL UNBEHAGEN**
201 TOWN CREEK DRIVE
CARY, NC 27519

cc: **GREG WALLANCE**
EMU SOFTWARE, INC.
128 TOWERVIEW COURT
CARY, NC 27513

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PRAXAIR, INC.
LAW DEPARTMENT - M1 557
39 OLD RIDGEBURY ROAD
DANBURY, CT 06810-5113

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APR 04 2007
OFFICE OF PETITIONS

In re Application of :
Dan Dalton :
Application No. 10/730,925 : ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. D-21,382 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 21, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before August 7, 2006. A Notice of Abandonment was mailed on September 7, 2006. In response, on September 21, 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 $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) the required 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

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MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA, VA 22314

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Bain, David	:	
Application No. 10/730,937	:	DECISION ON PETITION
Filed: December 10 2003	:	
Attorney Docket No. B5BAI004.14	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

The Notice of Appeal filed March 17, 2008, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

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

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

This matter is being referred to Technology Center 3629 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: DAVID BAIN
1807 N. DANVILLE ST.
ARLINGTON, VA 22201

UNITED STATES PATENT AND TRADEMARK OFFICE

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JACOBSON & JOHNSON
ONE WEST WATER STREET
SUITE 285
ST. PAUL, MN 55107

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NOV 04 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Monson	:	
Application No. 10/730,959	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 5840	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed May 27, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 28, 2004.

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

This matter is being referred to Publishing Division.

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

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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
10/730,960	12/09/2003	2188	1222	5649-1157	4	26	7

CONFIRMATION NO. 3659

CORRECTED FILING RECEIPT

OC000000013706942

Robert N. Crouse
Myers Biegel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

Date Mailed: 09/03/2004

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

Applicant(s)

Min-Su Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Sang-Ha Hwang, Gyeonggi-do, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number **20792**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-14778 03/10/2003

If Required, Foreign Filing License Granted: 03/22/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/730,960

Projected Publication Date: 09/16/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods, circuits, and data structures for programming electronic devices

Preliminary Class

711

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

GRANTED

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

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

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

NOT GRANTED

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO NC 27420

In re Application of :
REEVES, JODI L., et al. :
Application No. 10/730,961 :
Filed: December 9, 2003 :
For: **TAPE MANUFACTURING SYSTEM** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed December 9, 2003 under Manual of Patent Examination Procedure (MPEP) §708.02, IX (Inventions relating to Superconductivity) requesting accelerated examination.

The petition and application meet the requirements for special status under the above section of the MPEP.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
1500 K STREET N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Efstratios Tsantilis	: DECISION ON REQUEST FOR
Patent Number	: 7600219	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/730,975	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1152** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 12, 2007

TO SPE OF : ART UNIT 2839 (10/730989)

SUBJECT : Request for Certificate of Correction on Patent No.: 6890195 B2

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

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans

Thank You For Your Assistance

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:

For claim 6, column 12, the line number is changed from '8' to -7-.

T C Patel — **SPE**

2839 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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CYNTHIA J. LEDGLEY
BARRISTER & SOLICITOR, PATENT & TM AGENT
SUITE 1000, (10TH FLOOR)
121 RICHMOND ST. WEST
TORONTO ON M5H 2K1 CA CANADA

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AUG 12 2008

In re Application of	:	
Richard Charles Gordon Cooper	:	
Application No. 10/730,990	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 63-5	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 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 file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 25, 2006. A three months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 26, 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 (1).

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). Petitioner submits an amendment which in the opinion of examiner in charge of this application does not prima facie place the application in condition for allowance (see attached Advisory Action PTOL-303). The claim is considered to be indefinite under 35 USC 112, paragraph 2. Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CYNTHIA J. LEDGLEY
BARRISTER & SOLICITOR, PATENT & TM AGENT
SUITE 1000, (10TH FLOOR)
121 RICHMOND ST. WEST
TORONTO, ON M5H 2K1 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Richard Charles Gordon COOPER	:	
Application No. 10/730,990	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 63-5	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 September 25, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 26, 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 $750.00; and (3) a proper 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Technology Center AU 3736 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ledgley Law
Barrister & Solicitor
Patent & Trademark Agent
111 Richmond Street W. Suite 905
Toronto, on M5H 2G4
CANADA

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

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of :
Ulrich Wegmann :
Application No. 10/731,011 : ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. Q78854

This is a decision on the petition filed, May 26, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 26, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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GRAYBEAL JACKSON LLP
155 – 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5973

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OCT 28 2008

In re Patent No. 7,415,800	:	
Issue Date: August 26, 2008	:	
Application No. 10/731,046	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. STIENW0301	:	

This is a decision on the petition filed August 5, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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

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CENTRAL COAST PATENT AGENCY
PO BOX 187
AROMAS CA 95004

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OFFICE OF PETITIONS

In re Application of
Dhanapal et al.
Application No. 10/731,047
Filed: December 8, 2003
Attorney Docket No. P3511
Title: Procedural Computation Engine for Providing Complex Calculated Data Results to an Object-oriented Server System Accessible to Service Clients and Agents over a Data Packet Network

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed May 12, 2006, 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 8, 2003, without an executed oath or declaration. Accordingly, on December 13, 2005, 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 February 13, 2006.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a three (3) month extension of time was also submitted. Petitioner has submitted $130.00 towards the petition fee however, the current petition fee is $200.00. Pursuant to petitioner's request deposit

account 50-0534 will be charged the $70.00 difference.

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 requirement (2).

As to item (2), the signature block of inventor Sanjay Mittal contains non-initialed alterations to the declaration. A newly executed declaration without alterations must be submitted pursuant to 37 CFR 1.67(a)(2).

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

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OFFICE OF PETITIONS

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In re Application of

Sathiyamoorthy Dhanapal, Suresh Sabpathy Sambandam, Sanjay Mittal and Sam Hamiltonl

Application No.10/731,047

Filed: December 8, 2003

Attorney Docket No. P3511

Procedural Computation Engine For Providing Complex Calculated Data Results to an Object-Oriented Server System Accessible to Service Clients and Agents over a Data Packet Network

DECISION

This is in response to the petition under 37 CFR 1.47(a) filed June 27, 2006 and supplemented on August 17, 2006.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Sambandam has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that 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 (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Sabpathy Sambandam
18 West Mada Shreenagar Colony
Saidapet, Chennai 600015
India

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SEP 05 2006

OFFICE OF PETITIONS

In re Application of
Sathiyamoorthy Dhanapal, Suresh Sabpathy Sambandam, Sanjay Mittal and Sam Hamiltonl
Application No.10/731,047
Filed: December 8, 2003
Attorney Docket No. P3511
Procedural Computation Engine For Providing Complex Calculated Data Results to an Object-Oriented Server System Accessible to Service Clients and Agents over a Data Packet Network

: LETTER

Dear Mr.Sambandam :

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 (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

CENTRAL COAST PATENT AGENCY
PO BOX 187
AROMAS CA 95004
ATTN: DONALD BOYS

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MAY 12 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Main & Asmus
100 Main Street
PO Box 3445
Nashua, NH 03061-3445

In re application of
Royden C. Sanders
Application No. 10/731,056
Filed: December 9, 2003
For: SIESMIC SENSITIVE MASS MOTION POWER CONVERTER FOR PROTECTING STRUCTURES FROM EARTHQUAKES

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

This is a decision on the petition submitted on December 9, 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 Mr. Royden C. Sanders indicating that he is at least 65 years of age.

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

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

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

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

RAR/vdb: 5/5/04

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Paper No.

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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OCT 04 2004

OFFICE OF PETITIONS

In re Application of: :
Mariyama et al. :
Application No. 10/731,087 : DECISION ON
Filed: December 10, 2004 : PETITION
For: BIDIRECTIONAP PHOTOTHYRISTOR :
CHIP, LIGHT-FIRED COUPLER AND :
SOLID STATE RELAY :

This is a decision on the Petition UNDER 37 CFR 1.182, filed June 25, 2004. The Petition requests substitution of drawing sheet 20 - 24.

The application was filed on December 10, 2003. However, on April 26, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of December 10, 2003, and advising applicants that Figures 24B and 25 described in the specification appeared to have been omitted from the application.

In response, the present petition was filed. The petition is accompanied by a formal drawing correction renumbering the drawing Figures of drawing sheet 20-24 as 21-25, and seeks to add drawing Figure 20. The petition explains that the correct Figure 20 was not filed on December 10, 2003, instead Figures 20-24 were mislabeled, and that no new matter has been added.

Figures 20-24, filed December 10, 2003, and corrected Figures 21-25

A review of the file confirms that the drawings filed on December 10, 2003, included Figures 20, 21, 22, 23A, 23B and 24. A review of the corrected drawing Figures filed with the instant petition confirms that drawing Figures 20, 21, 22, 23A, 23B and 24 have been renumbered to Figures 21, 22, 23, 24A, 24B and 25. The proposed drawing corrections filed on June 25, 2004, will be considered by the primary examiner in due course. See MPEP 608.02(h).

However, the specification filed on December 10, 2003, describes Figures 24B and 25. Since the drawings filed on December 10, 2003, did not include figures labeled "Fig-24B" and "Fig-25", the "Notice" mailed April 26, 2004, was correct in advising applicants that drawings of Figures 24A and 25 appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Figure 20, filed June 25, 2004

Applicant seeks to add drawing Figure 20, filed with the instant petition, and avers that the drawing Figure is not new matter as it the same Figure appearing in priority documents. 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).

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 10, 2003, using the drawings filed on that date.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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SEP 15 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERT E. BUSHNELL
1522 K STREET NW
SUITE 300
WASHINGTON DC 20005-1202

In re Application of
Dae-Gunn Jei
Application No. 10/731,126
Filed: December 10, 2003
For: **MULTI-PURPOSE HYBRID TERMINAL AND METHOD FOR PREPARING FAST IMPLEMENTATION OF FUNCTI**

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on August 19, 2005, requesting that the shortened statutory period for reply set forth in the Office communication mailed on August 11, 2005 be reset and restarted.

Petitioner states that the non-final Office action relied upon a reference, "Barnes, Jr., Pub. No. US 20050136949" but that the Barnes, Jr. reference was not listed on either an 892 by the examiner or form PTO-1449 submitted by applicant.

MPEP §710.06 [R-2] Situations When Reply Period Is Reset or Restarted, states in part:

> Where the citation of a reference is incorrect or an Office action contains some other defect and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

37 C.F.R. § 1.104 Nature of examination, states in part:

> (a) Examiner's action ...
>
> (2) The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action <u>and such information or references will be given as may be</u>

> useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution. [emphasis added]

Although current Office practice is not to provide copies of U.S. Patents or U.S. Publications with Office communications, and even though examiner did indicate the Pub. No. of the Barnes, Jr. reference that was being relied upon in the Office action, the examiner did not list the Barnes, Jr. reference on the citation of art (i.e., form PTO-892) which accompanied the action. Therefore, the Office action mailed August 11, 2005 was deficient.

Accordingly, the petition is **GRANTED**.

Given that the error was brought to the attention of the Office within 1 month of the mail date of the action, in accordance with MPEP §710.06, the time period will be reset and restarted with the re-mailing of the Office action.

The application record will be forwarded to the examiner to complete a supplemental Notice of References Cited, specifically listing the Barnes, Jr. reference. From there, the application will be forwarded to the Technology Center's technical support staff for remailing the Office action with the supplemental Notice of References Cited prepared by the examiner.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Hidetoshi Koike	:	
Application No. 10/731,148	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 246360US2S	:	

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 8, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2814 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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Paper No.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,534,253	:	
Endara et al.	:	DECISION ON
Issue Date: May 19, 2009	:	REQUEST FOR
Application No. 10/731,153	:	RECONSIDERATION OF
Filed: December 10, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 06530.0313	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed June 22, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred fifty-eight (758) days to one thousand and twelve (1012) days.

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

On May 19, 2009, the above-identified application matured into US Patent No. 7,534,253 with a patent term adjustment of 758 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentees assert entitlement to a patent term adjustment of 1012 days (368 + 782 + 1 reduced by 114 overlap - 25 (applicant delay)).

The Office agrees that an RCE was filed 3 years and 368 days after the filing date of this application. The Office agrees that certain actions were not taken within the specified time frames, and thus, the entry of a period of adjustment of 782 days for Office delay is correct. At issue is whether Patentees

should accrue 254 days of patent term adjustment for the Office taking in excess of three years to issue the patent (368 days less the 114 days of overlap), as well as 782 days for Office failure to take certain actions within a specified time frame (or examination delay).

The Office contends that the entire 368-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

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

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 10, 2003 to December 13, 2007 (the date on which the RCE was filed). 782 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within specified time frames during the pendency of the application. All of the 368 days for Office delay in issuing the patent overlap with the 782 days of Office delay (1 day was accorded subsequent to the filing of the RCE).

The 368 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 782 days attributable to the grounds specified in 37 C.F.R. § 1.702(a)(1). 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 thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Christina L. Donnell for

Anthony Knight
Supervisor
Office of Petitions

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
JUN 14 2010
OFFICE OF PETITIONS

In re Patent No. 7,534,253	:	DECISION ON REQUEST
Endara et al.	:	FOR
Issue Date: May 19, 2009	:	RECONSIDERATION OF
Application No. 10/731,153	:	PATENT TERM ADJUSTMENT
Filed: December 10, 2003	:	and
Atty Docket No. 06530.0313	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on November 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand and twelve (1012) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand and eleven (1011) 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 10, 2006 and ends on December 12, 2007, the day before the RCE was filed, and is 367 (not 368) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, considering the period of overlap, the patent term adjustment is increased to 1011, not 1012 days.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on initial petition filed June 22, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand and eleven (1011) days**.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,253 B2

DATED : May 19, 2009 **DRAFT**

INVENTOR(S) : Endara 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 758 days

Delete the phrase "by 758 days" and insert – by 1011 days--

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NOVAK DRUCE DELUCA & QUIGG
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON, DC 20005

COPY MAILED
MAR 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Till Gerlach et al	:	
Application No. 10/731,167	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 54173	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 4, 2005.

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

This matter will be referred to Technology Center AU 1621.

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

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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03 JAN 2006

GALGANO & BURKE
300 Rabro Drive, Suite 135
Hauppauge, NY 11788

In re Application of:	:	
CRICI, Richard, et al.	:	DECISION ON PETITION
Application No.: 10/731,195	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: December 08, 2003	:	
Atty Docket No.: 1363-2CON	:	
For: INTERNET-BASED	:	
APPOINTMENT SCHEDULING	:	
SYSTEM	:	

This is a decision on the "Petition For Acceptance Of An Unintentionally Delayed Claim For Priority Under 37 CFR 1.17(t)" filed June 22, 2005, treated herein under 37 CFR 1.78(a)(3). The petition seeks acceptance of an unintentionally delayed claim under 35 U.S.C. §§ 120 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 nonprovisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore this is a proper petition under 37 CFR 1.78(a)(3).

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

(1) the reference to the prior-filed application, as required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t);
(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 present 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 applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the

petition includes a proper statement of unintentional delay.[1] Accordingly, having found that the petition for acceptance of the unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) 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. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include 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 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 questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

[1] Applicants' explanatory statements in the petition are being construed as the statement required by 37 CFR 1.78(a)(3)(iii), that is, a statement that "the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional." Applicants **must** inform this Office immediately if this is not a proper interpretation of applicants' statements.

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MARK YOUNG, P.A.
12086 FORT CAROLINE ROAD
UNIT 202
JACKSONVILLE FL 32225

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MAR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard Crici et al.	:	
Application No. 10/731,195	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 1363-2CON	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 non-final Office action mailed May 9, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 10, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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 Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3623 for appropriate action on the concurrently filed amendment.

Liana Walsh
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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MAY 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Martin B. Wolk	:	
Application No. 10/731,199	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 59001US002	:	

This is a decision on the petition, filed May 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 25, 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 1752 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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JUN 2 2004

Office of the Director
Group 3600

EDMUND S. LEE III
104 Fieldstone Drive
Terrace Park OH 45174

In re application of
E. Lee Wilkinson JR. et al
Application No. 10/731,201
Filed: December 10, 2003
For: JOINING OF FOAM CORE PANELS

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

This is a decision on the petition submitted on December 10, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

KJD/pav: 5/22/04

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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 04/26/2010

Applicant	: Antonio Rinaldi	: DECISION ON REQUEST FOR
Patent Number	: 7603025	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/731,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1397** 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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Baker Botts L.L.P
910 Louisiana Street, One Shell Plaza
HOUSTON, TX 77002

Mail Date: 04/20/2010

Applicant	: Richard Golasky	: DECISION ON REQUEST FOR
Patent Number	: 7586942	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1610** 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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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AUG 28 2006
OFFICE OF PETITIONS

In re Application of :
Desai, et al. :
Application No.: 10/731,224 :
Filed: December 9, 2003 : ON PETITION
Attorney Docket No.:420042000300 :
For: COMPOSITIONS AND METHODS OF DELIVERY OF PHARMACOLOGICAL AGENTS

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to properly reply to the final Office action mailed August 25, 2005. An amendment, filed February 27, 2006 (a Monday) failed to place this application in *prima facie* condition for allowance. A review of financial records indicates that the Office failed to charge the three month extension of time when authorized. As the amendment was addressed by the examiner, and the date of abandonment is impacted by the payment of the fee, the fee will be charged to deposit account no. 12-1216. This application became abandoned on February 26, 2006. A Notice of Abandonment was mailed on January 3, 2006.

The Notice of Appeal filed March 31, 2006 has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Please find enclosed Notices regarding the change of power of attorney filed on March 31, 2006.

After the mailing of this decision, the file will be forwarded to Technology Center AU 1653.

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

Enclosures: Notices Regarding Change of Power of Attorney

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,235	12/08/2003	Kazuto Yoneyama	16869P-097700US	4953

20350 7590 09/18/2008
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
GORTAYO, DANGELINO N

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
09/18/2008	PAPER

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

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

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George B. F. Yee
TOWNSEND and TOWNSEND and
CREW LLP
Two Embarcadero Center
Eight Floor
San Francisco, California 94111-3834

In re Application of:
Kazuto YONEYAMA
Application No. 10/731,235
Filed: December 8, 2003
For: RECORDING MEDIUM AND PLAYBACK DEVICE

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition, filed on 21 July 2008, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 28 March 2008 be restarted.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the petition, the petitioner stated that the Office Action mailed 28 March 2008 was never received by applicants and stated applicant's representative only discovered the Office Action during a recent review of the PAIR system on 21 July 2008. The petitioner supplied a copy of docket record (Patent Record Sheet) showing that the Office Action was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Office Action on or about 28 March 2008.

Since the petitioner failed to provide a statement attesting to the fact that a search of the file jacket and docket record indicated that the Office Action was not received, he has not met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Office Action mailed 28 March 2008. To expedite the prosecution of this application, the undersigned is

hereby assuming that the petitioner did search the file jacket and docket record and the petitioner found no record of receiving the Office Action.

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Office Action mailed on 28 March 2008 is hereby reset to run FROM THE DATE OF 21 July 2008.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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

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OFFICE OF PETITIONS

In re Application of	:	
Ohtsuki, et al.	:	
Application No. 10/731,247	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. 2244.0150000	:	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 8, 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 Linda E. Horner on behalf of herself.

Applicant is reminded that all other attorney/agents remain of record in this application.

The correspondence address of record remains unchanged.

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

April M. Wise
Petitions Examiner
Office of Petitions

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

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of
Peck, Dubey, Tokarski, Zhang, Li, and Arnold
Application No.: 10/731,258
Filed: December 9, 2003
Attorney Docket No: VTN-632
For: CONTACT LENS PACKAGES CONTAINING ADDITIVES

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed September 13, 2004.

The petition is **GRANTED**.

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

The above-cited application was filed on December 9, 2003, without an oath or declaration. On March 10, 2004, a Notice to File Missing Parts of Nonprovisonal Application was mailed requiring a properly executed oath or declaration and a surcharge. The notice set an extendable period for reply of two months from its mailing date. The instant petition under 37 CFR 1.47(a) was filed on September 13, 2004 (certificate of mailing dated September 10, 2004), along with an extension of time within the third month.

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

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

This application will be 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

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

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Motoyoshi Sekiya, et al.	:	
Application No. 10/731,266	:	DECISION GRANTING PETITION
Filed: December 9, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FUJZ. 20.770	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Nathan Weber appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Nathan Weber desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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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.*

This application is being referred to Technology Center AU 2613 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy
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

SCHWEGMAN, LUNDGERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Mark R. Thomann et al	:	
Application No. 10/731,276	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 303.594US2	:	

This is a decision on the petition, filed February 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 20, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2189 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

Paper No. _____

Date : February 13, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Mark R. Thomann et al
Application No. :10/731,276
Filed :December 9, 2003

The above-identified application has been assigned Patent No. 7,007,148 and an issue date of February 28, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 28, 2006:

"All reference to Patent No. 7,007,148 to Mark R. Thomann et al of Idaho for DOUBLE DATA RATE SCHEME FOR DATA OUTPUT appearing in the Official Gazette of February 28, 2006, should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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.
10/731,277	12/08/2003	Jinsheng Wang	KM2055.1CP1CP1C	1300

20995 7590 11/30/2009
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
LIN, WEN TAI

ART UNIT	PAPER NUMBER
2154	

NOTIFICATION DATE	DELIVERY MODE
11/30/2009	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):

jcartee@kmob.com
eOAPilot@kmob.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091110

DATE : November 12, 2009

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction on Patent No.: 7299281

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 CoC request is directed to amending the first sentence of the specification to cover relationship to two other prior filed applications. This does not affect the scope of the claims.

/NATHAN FLYNN/
Supervisory Patent Examiner, Art Unit 2454

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
Huang, et al.	:	
Application No. 10/731,281	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 05-03-014	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 29, 2009.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed March 16, 2009. This Notice set a statutory period for reply of three months for issue fee transmittal. No issue fee having been received, the application became abandoned on June 17, 2009. A Notice of Abandonment was mailed on July 1, 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 the issue fee.

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

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 12 2006

OFFICE OF PETITIONS

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
700 STATE STREET
RACINE, WI 53404

In re Application of :
Horn : DECISION ON PETITION
Application No. 10/731,303 :
Filed: December 9, 2003 :
Dkt. No.: 17368 191094.00014 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 15, 2006 for failure to timely reply to the Notice of Allowance (Notice) mailed November 14, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed March 28, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JUN 2 2004

Office of the Director
Group 3600

Ray R. Regan
Law Office Of Ray R. Regan P.A.
P.O. Box 1442
Corrales, NM 87048

In re application of
Kenneth L. Suazo, et al.
Application No. 10/731,315
Filed: December 8, 2003
For: APPARATUS AND METHOD FOR TRANSPORTING WATER WITH LINER

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition submitted on December 8, 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 V: Environmental Quality.

The petition to make special based on environmental quality is **DISMISSED**.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that the invention will substantially reduce the amount of water lost to evaporation and other causes of water loss. This reason is not acceptable because it does not explain how this invention materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e. air, water and soil.

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.

SUMMARY: Petition To Make Special **DISMISSED**

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

KJD/vdb: 5/20/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Mathilde Benveniste	: DECISION ON REQUEST FOR
Patent Number	: 7606208	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CISLO & THOMAS LLP
233 WILSHIRE BOULEVARD, SUITE 900
SANTA MONICA, CA 90401-1211

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OFFICE OF PETITIONS

In re Application of :
C. Martin Smith and Ted J. Brackett :
Application No. 10/731,364 : DECISION ON PETITION
Filed: December 9, 2003 :
Attorney Docket No. 02-11429 :

This is in response to the "Request for Correction of First Named Inventor," filed July 19, 2005, which is being treated as a petition under 37 CFR 1.181 requesting that the Office correct its error in the order of the named inventors.

The petition is **dismissed**.

Applicants state that the Office incorrectly listed the first named inventor as C. Martin Smith and Ted J. Brackett as the second named inventor, when, in fact, Ted J. Brackett is the first named inventor and C. Martin Smith is the second named inventor. Therefore, applicants request that the Office correct its record to show the correct order of inventorship.

A review of the Combined Declaration and Power of Attorneys filed in this application discloses that two executed declarations were filed: one naming as sole inventor C. Martin Smith and the other naming Ted J. Brackett as the sole inventor. Neither declaration sets forth the fact that Smith and Brackett are joint inventors in this application.

37 CFR 1.63(a)(2) states:

> (a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:
>
> * * * * * * * *
>
> (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** * * *.

Applicants' attention is further directed to MPEP 602, which states in relevant part:

> 37 CFR 1.63 no longer requires the oath or declaration to state that the inventor is a sole or joint inventor of the invention claimed. When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor together with each of the other inventors indicating them by name. This may be done by stating that he or she does verily believe himself or herself to be the original, first and joint inventor together with "A" or "A & B, etc." as the facts may be.

The two executed declarations received do not comply with the provisions of 37 CFR 1.63, since each declaration does not reference the fact that Smith is an inventor together with inventor Brackett and indicating the name of the other inventor. Therefore, as the declarations are defective, they are not acceptable.

Accordingly, applicant is given a period of two (2) months within which to file an executed oath or declaration which sets forth the names of each inventor in compliance with 37 CFR 1.63(a)(2). This period is extendable under the provisions of 37 CFR 1.136(a). Failure to timely reply will result in the abandonment of the application.

It is noted that the issue fee has been paid. However, since the declarations filed in this case are defective, the application is not in condition for issuance. Accordingly, this application will be withdrawn from issue until the above matter is resolved.

Additionally, as applicants submitted two separately executed declarations, the Office took the order of the names of the inventors in the order that the declarations were placed in the file. Therefore, as no error occurred on the part of the Office in the listing of the order of the names of the inventors, a petition under 37 CFR 1.182 and $400 fee therefor must now be submitted to correct applicants' error in not supplying properly executed declarations setting forth the named inventors and in the order desired.

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

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

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

CISLO & THOMAS LLP
Attorneys at Law
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
SUITE 900
233 WILSHIRE BOULEVARD
SANTA MONICA, CALIFORNIA 90401

(310) 451-0647
L. A. (323) 870-1163
FACSIMILE (310) 394-4477
INTERNET WWW.CISLO.COM

PROCUREMENT AND ENFORCEMENT
OF INTELLECTUAL PROPERTY

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December 16, 2005

MAIL STOP PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Re: **Serial No. 10/731,364**
Response to Decision on Petition Dated November 17, 2005 for
PAINT BRUSH AND MAKEUP BRUSH CLEANING DEVICE
Our Docket No. 02-11429

Dear Sir/Madam:

Please find enclosed a Response to Decision on Petition Dated November 17, 2005, Combined Declaration and Power of Attorney for Ted J. Brackett, Combined Declaration and Power of Attorney for C. Martin Smith, and certificate of mailing for the above referenced patent application. Kindly acknowledge receipt thereof by returning the enclosed postcard.

A check in the amount of $400.00 is enclosed for filing fees, however any additional fees which may be required may be charged to our deposit account no. 03-2030.

Very truly yours,

CISLO & THOMAS LLP

Daniel M. Cislo

DMC/SAB/sd

Enclosures
Response to Decision on Petition Dated November 17, 2005
Combined Declaration and Power of Attorney for Ted J. Brackett
Combined Declaration and Power of Attorney for C. Martin Smith
Check for filing fees
Certificate of First Class Mail
Acknowledgement postcard

Z:\TMDOCS\02-11429\TRANSMITTAL LETTER RE RESPONSE TO DECISION ON PETITION RE FIRST NAMED INVENTOR.DOC

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DEC 1 6 2005

PATENT
Appl. No. 10/731,364
Our Docket No. 02-11429

Customer Number
25189
PATENT TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of inventor(s):

Ted J. Brackett

Serial Number:	10/731,364	Examiner:	Spisich, Mark
Filed:	December 9, 2003	Art Unit:	1744

For: **PAINT BRUSH AND MAKEUP BRUSH CLEANING DEVICE**

MAIL STOP PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO DECISION ON PETITION DATED NOVEMBER 17, 2005

Dear Sir:

A Decision on Petition ("Decision") for the above-referenced matter was issued on November 17, 2005 in response to Applicants' Request for Correction of First Named Inventor. In the Decision, Examiner Frances Hicks found that the previously filed Combined Declaration and Power of Attorneys for inventors Ted J. Brackett and C. Martin Smith individually identified each inventor as the sole inventor and requested that new executed oaths or declarations be filed, stating that each individual is a joint inventor, in compliance with 37 CFR 1.63(a)(2).

12/19/2005 TL0111 00000025 032030 10731364
01 FC:1462 400.00 DA

The PTO did not receive the following listed item(s) Check

PAGE 2/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

PATENT
Appl. No. 10/731,364
Docket No. 02-11429

Applicants hereby enclose newly executed Combined Declarations and Powers of Attorney for Ted J. Brackett and C. Martin Smith in compliance with 37 CFR 1.63(a)(2). A check in the amount of $400.00 is enclosed for filing fees.

Having responded to each of the issues addressed in the Decision on Petition, Applicants respectfully request that the application be allowed to issue. If a telephone interview will advance the issuance of the application, Applicants request the Examining Attorney contact Applicants' representative at the number listed below.

Respectfully submitted,

CISLO & THOMAS LLP

Date: December 16, 2005

Daniel M. Cislo
Reg. No. 32,973
Tel.: (310) 451-0647 x128

DMC/SAB/sd

CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401
Tel: (310) 451-0647
Fax: (310) 394-4477
Customer No.: 25,189
www.cislo.com

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PAGE 3/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

PATENT
Appl. No. 10/731,364
Docket No. 02-11429

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following papers are being facsimile transmitted to the U.S. Patent and Trademark Office (fax no.: (571) 273-8300) on the date shown below:

Response to Decision on Petition Dated November 17, 2005 12/15/05

12/15/05
Date

Sarah A. Brown, Reg. No. 47,455

z:\wndocs\02-11429\request for correction of first named inventor.doc

PAGE 4/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

Practitioner's Docket No. 02-11429 *PATENT*

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL, CONTINUATION, OR C-I-P)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is for a continuation-in-part utility application.

INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and joint inventor of the subject matter that is claimed, together with C. Martin Smith, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

PAINT BRUSH AND MAKEUP BRUSH CLEANING DEVICE, the specification of which was filed with the U.S. Patent Office on December 9, 2003.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56.

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATIONS(S) UNDER 35 U.S.C. SECTION 120

I hereby claim the benefit, under Title 35, United States Code, Section 120, of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose information that occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

PAGE 5/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. SECTION 120:

U.S. APPLICATIONS		STATUS		
U.S. APPLICATIONS	U.S. FILING DATE	Patented	Pending	Abandoned
60/245,078	11/01/00			X (Provisional Application)
6,666,925 B2	11/01/2001	X		

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

APPOINTED PRACTITIONER(S)	REGISTRATION NUMBER(S)
Donald M. Cislo, Esq.	22,060
Charles H. Thomas, Esq.	25,710
Daniel M. Cislo, Esq.	32,973
Andrew S. Jordan, Esq.	33,917
Kelly W. Cunningham, Esq.	43,570
David B. Sandelands, Esq.	46,023
Sarah A. Brown, Esq.	47,455
Mark D. Nielsen, Esq.	52,068
Sean D. O'Brien, Esq.	52,080
Peter S. Veregge, Esq.	55,698

I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

AUTHORIZATION OF ATTORNEY(S) TO ACCEPT AND FOLLOW INSTRUCTIONS FROM REPRESENTATIVE

The undersigned to this declaration and power of practitioner hereby authorizes the U.S. practitioner(s) named herein to accept and follow instructions from:

Daniel M. Cislo
Cislo & Thomas LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401-1211

as to any actions to be taken in the Patent and Trademark Office regarding this application without direct

PAGE 6/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

communication between the U.S. practitioner(s) and the undersigned. In the event of a change in the person(s) from whom instructions may be taken, the U.S. practitioner(s) will be so notified by the undersigned.

SEND CORRESPONDENCE AND DIRECT TELEPHONE CALLS TO:

Daniel M. Cislo
CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401-1211
USA
Telephone: (310) 451-0647
Telefax: (310) 394-4477
Email: dancislo@cislo.com

Customer Number 25,189

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Inventor Name: Ted Brackett

Inventor's Signature T. Brackett

Date 12/9/05

Mailing Address 102 Rosecrans Avenue, Manhattan Beach, California, 90266

Country of Citizenship USA

Residence Manhattan Beach, California

Z:\TM\DOCS\02-1142\REVISED DECLARATION OF TED BRACKETT.DOC

PAGE 7/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

Practitioner's Docket No. 02-11429 *PATENT*

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL, CONTINUATION, OR C-I-P)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is for a continuation-in-part utility application.

INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, second and joint inventor of the subject matter that is claimed, together with Ted J. Brackett, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

PAINT BRUSH AND MAKEUP BRUSH CLEANING DEVICE, the specification of which was filed with the U.S. Patent Office on December 9, 2003.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56.

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATIONS(S) UNDER 35 U.S.C. SECTION 120

I hereby claim the benefit, under Title 35, United States Code, Section 120, of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose information that occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

PAGE 8/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. SECTION 120:

U.S. APPLICATIONS		STATUS		
U.S. APPLICATIONS	U.S. FILING DATE	Patented	Pending	Abandoned
60/245,078	11/01/00			X (Provisional Application)
6,666,925 B2	11/01/2001	X		

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

APPOINTED PRACTITIONER(S)	REGISTRATION NUMBER(S)
Donald M. Cislo, Esq.	22,060
Charles H. Thomas, Esq.	25,710
Daniel M. Cislo, Esq.	32,973
Andrew S. Jordan, Esq.	33,917
Kelly W. Cunningham, Esq.	43,570
David B. Sandelands, Esq.	46,023
Sarah A. Brown, Esq.	47,455
Mark D. Nielsen, Esq.	52,068
Sean D. O'Brien, Esq.	52,080
Peter S. Veregge, Esq.	55,698

I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

AUTHORIZATION OF ATTORNEY(S) TO ACCEPT AND FOLLOW INSTRUCTIONS FROM REPRESENTATIVE

The undersigned to this declaration and power of practitioner hereby authorizes the U.S. practitioner(s) named herein to accept and follow instructions from:

Daniel M. Cislo
Cislo & Thomas LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401-1211

as to any actions to be taken in the Patent and Trademark Office regarding this application without direct

PAGE 9/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

communication between the U.S. practitioner(s) and the undersigned. In the event of a change in the person(s) from whom instructions may be taken, the U.S. practitioner(s) will be so notified by the undersigned.

SEND CORRESPONDENCE AND DIRECT TELEPHONE CALLS TO:

Daniel M. Cislo
CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401-1211
USA
Telephone: (310) 451-0647
Telefax: (310) 394-4477
Email: dancislo@cislo.com

Customer Number 25,189

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Inventor Name: C. Martin Smith

Inventor's Signature

Date 12/13/05

Mailing Address 10978 Ayres Avenue, Los Angeles, California, 90064

Country of Citizenship USA

Residence Los Angeles, California

Z:\TMDOCS\02-1142\REVISED DECLARATION AND POWER OF ATTORNEY FOR C MARTIN SMITH.DOC

PAGE 10/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

PATENT
02-11429

25189
PATENT TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:
BRACKETT, Ted J., et al.

Serial Number: 10/731,364 Examiner: Frances Hicks

Filed: December 9, 2003 Art Unit: Office of Petitions

For: **PAINT BRUSH AND MAKEUP BRUSH CLEANING DEVICE**

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

CERTIFICATE OF FIRST CLASS MAILING

Dear Sir/Madam:

Enclosed herewith are the following:

1. Transmittal Letter (1 page);
2. Response to Decision on Petition Dated November 17, 2005 (3 pages);
3. Combined Declaration and Power of Attorney for Ted J. Brackett (3 pages)
4. Combined Declaration and Power of Attorney for C. Martin Smith (3 pages);
5. Check No. 31445 in the amount of $400.00 for filing fees; and
6. Acknowledgement Postcard.

PATENT
02-11429

I hereby certify that this paper or fee is being deposited with the United States Postal Service as first class mail under 37 C.F.R., § 1.8, on the date indicated herein and is addressed to:

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

Respectfully submitted,

CISLO & THOMAS LLP

Date: December 15, 2005

Sarah A. Brown
Reg. No. 47,455

CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401-1211
Customer No.: 25,189
Tel: (310) 451-0647
Fax: (310) 394-4477
www.cislo.com

SAB/sd

Enclosures
As listed above

z:\msdocs\02-11429\certificate of first class mail re response to decision on petition re first named inventor.doc

PAGE 12/12 * RCVD AT 12/16/2005 5:56:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:3106568457 * DURATION (mm-ss):02-26

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CISLO & THOMAS LLP
233 WILSHIRE BOULEVARD, SUITE 900
SANTA MONICA, CA 90401-1211

COPY MAILED
MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Ted J. Brackett and C. Martin Smith :
Application No. 731,364 :DECISION ON PETITION
Filed: December 9, 2003 :UNDER 37 CFR 1.182
Attorney Docket No. 01-11429 :

This is in response to the communication, filed December 20, 2005, which is being treated as a petition under 37 CFR 1.182, to change the order of inventorship in the above-identified application.

The petition is **GRANTED**.

Office records have been corrected to reflect the desired order of inventorship. A corrected Filing Receipt which sets forth the desired order of inventorship accompanies this decision on petition.

While the declaration now indicates that the above inventors are joint inventors, the substitute declaration submitted still does not list the inventors on one sheet, which would clearly indicate the order of inventorship. While the Office will be instructed to list the order of the names in the desired order, the printing of the patent may still reflect the original order. In such case, petitioner may request a certificate of correction. Petitioner may wish to consider filing an Application Data Sheet which sets forth the desired order of inventorship.

Any inquiries concerning this decision on petition may be directed to the undersigned at (571) 272-3218.

In view of the withdrawal of this application from issue, a new Notice of Allowance and Fee(s) Due will now have to be mailed. ***Accordingly, this application is being referred to Technology Center AU 1744 for remailing of a new Notice of Allowance.***[1]

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

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

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
10/731,364	12/09/2003	1744	885	02-11429	6	34	2

CONFIRMATION NO. 4390

CORRECTED FILING RECEIPT

OC000000018247757

25189
CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA, CA 90401-1211

Date Mailed: 03/09/2006

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)

Ted J. Brackett, Manhattan Beach, CA;
C. Martin Smith, Los Angeles, CA;

Power of Attorney:

Donald Cislo--22060
Charles Thomas Jr--25710
Daniel Cislo--32973
Andrew Jordan--33917
Robert Lauson--41930
Kelly Cunningham--43570
Sarah Brown--47455
Andrew Chen--48508
Thomas Dougherty--51214

Domestic Priority data as claimed by applicant

This application is a CIP of 10/002,365 11/01/2001 PAT 6,666,925
which claims benefit of 60/245,078 11/01/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/731,364

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

PAINT BRUSH AND MAKEUP BRUSH CLEANING DEVICE

Preliminary Class

015

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

MAILED

JUL 19 2010

OFFICE OF PETITIONS

Mr. Herbert W. Holland
2314 Chimney Rock Road
Houston TX 77056

In re Patent No. 6,852,235	:	
Issue Date: February 8, 2005	:	
Application No. 10/731,398	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 13, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 9, 2009, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William L. Bong
25 Kingston Place
Walnut Creek CA 94596

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AUG 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Bong et al.	:	
Application No.: 10/731414	:	ON PETITION
Filing or 371(c) Date: 12/09/2003	:	
Attorney Docket Number:	:	
ARC 03.002.CON	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 27, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed July 7, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on October 8, 2006. A Notice of Abandonment was mailed February 9, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1725 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF CHARLES L. THOEMING
BIELEN, LAMPE & THOEMING, P.A.
TWO CORPORATE CENTRE,
1390 WILLOW PASS ROAD, SUITE 1020
CONCORD, CA 94520

COPY MAILED

AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
William L. **BONG**, et al	:	
Application No. 10/731,414	:	DECISION ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. ARC 03.002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 23, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 23, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on 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 payment of the Issue Fee of $720 and Publication Fee of $300; (2) the petition fee of $770; and (3) the required statement of unintentional delay.

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

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

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

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

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LIEBERMAN & BRANDSDORFER, LLC
802 Still Creek Lane
Gaithersburg, MD 20878

MAILED

SEP 05 2006

Technology Center 2100

In re Application of: Paul MCKENNEY	)	
Application No. 10/731,454	)	*SUA SPONTE*
Attorney Docket No. BEA920000014US2	)	WITHDRAWAL OF HOLDING OF
Filed: December 9, 2003	)	ABANDONMENT
For: ADAPTIVE READER-WRITER	)	
LOCK	)	

The status inquiry, by way of a telephone inquiry by Applicant, on August 30, 2006 is acknowledged.

A review of the file indicates that a Notice of Abandonment was mailed on August 17, 2006. The notice indicated that the instant application was being held abandoned for failure to pay the issue fee in response to the Notice of Allowance (PTOL-85) mailed on March 21, 2006.

A further review of the file indicates that the Notice of Allowance and Issue Fee(s) Due of March 21, 2006 was mailed to an incorrect address (John Richard Daugherty, 1647 N. Woodhollow Way, Flagstaff, AZ 86004). The file contents show a proper change of correspondence address was received in the Office on February 27, 2006. The address of record of the instant application has been updated to reflect the correct address, i.e. Lieberman & Brandsdorfer, LLC, 802 Still Creek Lane, Gaithersburg, MD 20878.

As a result of a USPTO clerical error, the Notice of Allowance (PTOL-85), Notice of Allowability (PTOL-37), as well as the Notice of Abandonment, were mailed to the wrong address.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**. The Office regrets any inconvenience this may have caused.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to pending status and to **REDATE/REMAIL** the Notice of Allowance (PTOL-85) and Notice of Allowability (PTOL-37) along with the Examiner's reasons for allowance (restarting the time period for payment of the issue fee to begin with the remailing).

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED
SEP 26 2008

In re Application of	:	
Brian Jones, et al.	:	
Application No. 10/731,516	:	DECISION ON PETITION
Filed: December 9, 2003	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 60001.297US01	:	

This is a decision on the petition under 37 CFR 1.313(c), filed September 19, 2008, 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.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

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 undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THOMAS A. BECK
6136 WEST KIMBERLY WAY
GLENDALE AZ 85308

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JUN 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Alexei A. Karve, et al.	:	
Application No. 10/731,535	:	DECISION ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. IBM-267	:	

This is a decision on the petition, filed January 21, 2010, which is being treated as a petition under 37 CFR 1.8(a), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 20, 2006, which set a (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 29, 2007.

Petitioner states that a timely reply was mailed via certificate of mailing on May 20, 2007, which included the following papers: a Request for Continued Examination (RCE) and a request for three (3) month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated May 20, 2007, which would have rendered the reply timely if received.

The file record includes the originally submitted papers. However, the papers were received at the Office on June 26, 2007. Failure to timely receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(a), reproduced below:

Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or

(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The petition satisfies the above requirements of 37 CFR 1.8(a). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of November 20, 2006 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2168 for appropriate action in the normal course of business on the RCE received June 26, 2007.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Rule
105
8/21/07

Radar Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095

In re Application of:
Todd K. Whitehurst et al.
Serial No. 10/731,551
Filed: December 8, 2003
Docket:
Title: FULLY IMPLANTABLE MINIAUTURE NEUROSTILULATIOR FOR INTERCOSTAL NERVE STIMULATION AS A THERAPY FOR ANGINA PECTORIS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed March 19, 2007 petitioning the Technology Center Director under 37 CFR § 1.181 for supervisory review of the requirement under 37 CFR § 1.105. No fee is due.

The petition is dismissed.

Background

In the Office Action on May 18, 2006, under the Section, "Response to Arguments," Examiner told Applicants that he wanted to know:

> ...what nerves the applicant considers the intercoastal nerve branches to consist of. Specifically, the names of the nerves (such as the lateral cuteneous branch, anterior cutaneous branch, etc), whether these branches are directly connected to the intercoastal nerves, and whether they are connected toward or away from the spine. This information is required to extend the domain of search for prior art.

In a response filed on August 18, 2006, Applicants respectfully declined to define on the record the term, "intercostal nerve branches."

On September 18, 2006, Examiner mailed a 37 CFR § 1.105 requirement to Applicants requiring Applicants to state on the record the definition of "intercostal nerve branches."

Examiner justified request by stating,

> The information is required to extend the domain of search for prior art... to establish the level of knowledge of those of ordinary skill in the claimed subject matter art of applying stimulation to the intercostal nerve branches and intercostal nerves.

In a November 17, 2006 response, Applicants stated that Examiner's reason for the 37 CFR § 1.105 Requirement, "extending the domain of search for prior art," fell outside the scope of 37 CFR § 1.105 because it "requires introduction of new matter into the application and unnecessary prosecution history estoppel to the detriment of Applicant." Furthermore, Applicant submitted that request was *not* listed as one of the examples under 37 CFR § 1.105 pertaining to the types of information that may be requested by an Examiner.

Applicants further emphasize, through case law, that the Office must give each claim its plain and ordinary meaning in the relevant art unless the specification clearly provides an alternative definition.

> ...claim terms should be given *'their broadest reasonable construction* in light of the specification as it would be interpreted by one of ordinary skill *the art."* (emphasis added). *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (citing *In re Am.Acad. Of Sct, Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004):

Applicants argue that providing any other definition would be introducing, "new matter into the application to the extent that such definition would be used to supplement or supersede the specification in construing the relevant claim terms."

On March 19, 2007 Applicants petitioned 37 CFR § 1.105 Requirement.

Discussion and Analysis

With respect to the introduction of new matter, MPEP 2163.06, "Relationship of Written Description Requirement to New Matter," states, in part:

> Lack of written description is an issue that generally arises with respect to the subject matter of a claim. If an applicant amends or attempts to amend the abstract, specification or drawings of an application, **an issue of new matter will arise if the content of the amendment is not described in the application as filed. [Emphasis added]**

In the instant case, Applicants are not being required to insert any materials into the disclosure. Therefore, new matter cannot be introduced into the disclosure.

With respect to Applicants' assertion of unnecessary prosecution history estoppel, Applicants are being required to provide information in accordance with the regulations of 37 CFR § 1.105. All communications are, of course, part of the record.

With respect to Applicants' argument that none of the examples listed within 37 CFR § 1.105 mention, "requiring an Applicant to give a supplemental definition to a claim term," it is to be noted that use of the term "for example" and the providing of examples under 37 CFR § 1.105 are intended not to be restrictive but to provide guidance to other possibilities that may fit the application being reviewed.

MPEP 704.11(a), "Examples of Information Reasonably Required," specifies:

> 37 CFR § 1.105(a)(1)(i)-(viii) lists specific examples of information that may be reasonably required. Other examples, **not meant to be exhaustive**, of information that may be reasonably required for examination of an application include...**[Emphasis added]**

Furthermore, Federal Circuit Court allows an Examiner to request a definition of a term within a 37 CFR § 1.105 Request:

> Scope of information that may be required from applicant by patent examiner pursuant to 37 C.F.R. §1.105 encompasses information relevant to patent examination either procedurally or substantively, and includes zone of information beyond that defined by 37 C.F.R. §1.56 as material to patentability, and beyond that which is directly useful to support rejection or conclusively decide issue of patentability, since Section 1.105(a)(1) states that PTO may "require the submission ... of such information as may be reasonably necessary to properly examine or treat the matter". Star Fruits S.N.C. v. United States, 393 F.3d 1277, 73 USPQ2d 1409 (Fed. Cir. 2005).
>
> United States Patent and Trademark Office can use requirement for information under 37 C.F.R. §1.105 to compel disclosure of information that patent examiner deems pertinent to patentability, even if applicant disagrees with examiner concerning significance of information to ultimate question of whether application discloses patentable subject matter, since PTO is clearly entitled to use Section 1.105 to seek information that may support rejection, and since examiner is charged with duty of deciding whether patent should issue from application, and so long as examiner's request for information is not arbitrary or capricious, applicant cannot impede examiner's performance of that duty by refusing to comply with information requirement that proceeds from examiner's view of scope of law to be applied to application. Star Fruits S.N.C. v. United States, 393 F.3d 1277, 73 USPQ2d 1409 (Fed. Cir. 2005).

In the instant case, a review of the claimed/disclosed application indicates that Applicants have not indicated what nerves the Applicants consider the intercostal nerve branches as comprising. The terms, "intercostal nerves" or "intercastal nerve branches," apparently, can comprise different nerve branches at different locations. Thus, the need for more information to define these terms. If Applicants are stating that the claimed/disclosed treatment will work equally well when the neurostimulator is placed adjacent to any intercostal nerves influencing the angina pectoris, this is not at all clear from the filed disclosure or presently accumulating record. Is there an intercostal nerve set or branch that is more sensitive to the disclosed treatment than others? If so, Applicants have not stated this. Applicants are reminded that 35 U.S.C. 112, first paragraph, requires disclosure of the best mode. It is not clear that this is present or needs to be if all the intercostal nerve branches work the same. However, this should be part of the

examination process and may be determinable by the submissions, if any, as being required by Applicants.

Conclusion

Ultimately, the purpose in requiring Applicants to identify what nerves the Applicants consider the intercostal nerve branches to comprise is to improve the quality of the examination of the application. In view thereof, Examiner's requirement is not seen as unreasonable and is seen as within the scope of 37 CFR § 1.105.

PETITION DISMISSED.

Petitioner may file a request for reconsideration of this decision, without fee. However, such request must be filed within two months of the date of this decision. Petitioner is reminded that the mere filing of the request will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. See 37 CFR § 1.181(f).

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Frederick R. Schmidt, Director
Technology Center 3700

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ADVANCED BIONICS, LLC
25129 RYE CANYON LOOP
VALENCIA, CA 91355

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OFFICE OF PETITIONS

In re Application of	:	
Todd K. Whitehurst, et al.	:	
Application No. 10/731,551	:	DECISION ON PETITION
Filed: December 8, 2003	:	TO WITHDRAW
Attorney Docket No. 05-00537-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Advanced Bionics, LLC has been revoked by the assignee of the patent application on September 2, 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: VISTA IP LAW GROUP LLP/BSC
- NEUROMODULATION
2040 MAIN STREET
9TH FLOOR
IRVINE CA 92614

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ANTOINETTE M. TEASE
PO BOX 51016
BILLINGS, MT 59105

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OFFICE OF PETITIONS

In re Application of :
Walsh, Jr. :
Application No. 10/731,561 : ON PETITION
Filed: December 3, 2003 :
Attorney Docket No. WAL03-0001 :

This decision concerns the June 25, 2004 "Petition for Reinstatement of Filing Date" which is being properly treated as a petition under 37 CFR 1.53 that the above-referenced application be accorded a filing date of December 9, 2003.

The petition is **GRANTED.**

The application was deposited on December 9, 2003. On June 1, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" ("6/1/04 Notice"), stating that the application had not been accorded a filing date because it was deposited without drawings. It is noted that the specification filed on December 9, 2003 describes Figures 1-5, but no drawings of figure are in the USPTO file for this application.

Petitioner asserts that 5 sheets of drawings were filed on December 9, 2003 with the remaining application papers. In support, the petition is accompanied by a copy of a postcard receipt, indicating filing in the USPTO for this application on December 9, 2003 of, *inter alia*, 5 sheets of drawings. The Office thus concludes that 5 sheets of drawing had been filed on December 9, 2003 and received by the USPTO, but were subsequently misplaced.

In view of the above, the petition is **granted**. The 6/1/04 Notice was mailed in error and is hereby vacated. The $130 petition fee has been refunded.

The application file is being returned to OIPE for further processing with a filing date of December 9, 2003, using the papers filed on that date and supplemented with the 5 sheets of drawings (Figures 1-5) submitted with the instant petition; for indicating in the USPTO record that 5 sheets of drawings were present on filing; and for mailing a Filing Receipt.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Charles Steven Brantley
Senior Attorney
Office of Petitions

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PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey W. Corbett et al	:	
Application No. 10/731,565	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 26869 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 15, 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 May 16, 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

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

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 10/731567 received on 06/07/04 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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/3/07

TO SPE OF : ART UNIT 1623 Jiang Shaoja (Anna) Spe

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/731582 Patent No.: 6864244

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The C of C has been approved.

/S. A. JIANG/ 1623

SPE Art Unit

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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Gregg Baeckler	: DECISION ON REQUEST FOR
Patent Number	: 7636655	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,593	: 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 **1096** 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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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

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In re Application of	:	
Liu et al.	:	
Application No. 10/731,594	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No. 21437US2	:	

This is a decision on the petition under 37 CFR 1.10(d), filed November 8, 2004, requesting that the above-identified application be accorded a filing date of December 9, 2003, rather than the presently accorded filing date of December 8, 2003.

Petitioner asserted that the filing date was erroneously recorded as evidenced by the return receipt postcard, the certification of under 37 CFR 1.10, the Utility Patent Application Transmittal, and the Fee Sheet, all indicating a date of December 9, 2003.

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. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. 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) (Emphasis added).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered

by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) and 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 "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.

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

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express

Mail may be, for example, a log book which contains information such as the Express Mail label 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 the log book entry.

Regarding the present petition, petitioner has failed to submit 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" service, which corroborates the allegation that the application was, in fact, deposited with the USPS on December 9, 2003, before the last scheduled pick-up for that day. Therefore, the application will be accorded the date-in indicated on the USPS Express Mail label as the date the application was accepted by the USPS (December 8, 2003). The filing date for the above-identified application will remain December 8, 2003.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 08-2525.

Accordingly, the petition is **dismissed**.

Any request for reconsideration must be filed within TWO (2) MONTHS of the date of this decision in order to be considered timely. See 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows and to the **attention of Senior Petitions Attorney Christina Tartera Donnell**:

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

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

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

This matter is being referred to Technology Center Art Unit 1624 for examination in due course with the presently accorded filing date of December 8, 2003.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JEFFREY C. HOOD
MEYERTONS, HOOD, KIVLIN, KOWERT
& GOETZEL PC
P. O. BOX 398
AUSTIN, TX 78767-0398

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OFFICE OF PETITIONS

In re Application of
Bijan Sayyarrodsari, et al.
Application No. 10/731,596
Filed: December 9, 2003
Attorney Docket No. 5650-03600

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 March 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional Application No. 60/431,821, filed December 9, 2002.

The petition is **DISMISSED AS MOOT.**

While a reference to the prior-filed application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title, a reference, nevertheless, was made in the oath or declaration filed with the application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority of the prior-filed

[1] MPEP 201.11 (III)(D) pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

application in the oath of declaration filed with the application, as shown by its inclusion on the filing receipt.

Additionally, petitioner should be aware that Section MPEP 201.11 (III)(D) states in pertinent part:

> "The Office may not recognize any benefit claim where there is no indication of the relationship between the nonprovisional applications or no indication of the intermediate nonprovisional application that is directly claiming the benefit of the provisional application. Even if the Office has recognized a benefit claim by entering it into the Office's database and including it on applicant's filing receipt, the benefit claim is not a proper benefit claim under 35 U.S.C. 119(e) or 35 U.S.C. 120 and 37 CFR 1.78 unless the reference is included in an ADS or in the first sentence>(s)< of the specification and all other requirements are met."

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The matter is being referred to Technology Center AU 2121 for such action as the nature of the case may require.

Frances Hicks
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Kouji Arikawa, et al.
Application No. 10/731,599
Filed: December 9, 2003
For: **METHOD AND APPARATUS FOR OPTICAL HEAD AND OPTICAL INFORMATION REPRODUCING**

DECISION ON REQUEST TO WITHDRAW APPLICATION FROM ISSUE

This is a decision on the petition, filed January 24, 2005, to withdraw the above-identified application from issue pursuant to the provisions of 37 C.F.R. §1.313(a).

The petition **Denied**.

Petitioner's reasons for requesting withdraw of the application from issue is such that the Office might consider an IDS submission. The IDS for consideration, after the Notice of Allowance and Fee(s) Due on November 3, 2004.

A review of the application file reveals that a Notice of Allowance was mailed for the above-identified application on November 3, 2004. The IDS was submitted November 23, 2004 and the subject Petition was filed on January 24, 2005. It does not appear as though the Issue fee has paid.

37 C.F.R. §1.313 Withdrawal from issue, states in part:

> (a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant **must** file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary. A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee. If the Office withdraws the application from issue, the Office will issue a new notice of allowance if the Office again allows the application.

MPEP §609 Information Disclosure Statement, states in part:

> III. MINIMUM REQUIREMENTS FOR AN INFORMATION DISCLOSURE STATEMENT
>
> > B(3) Information Disclosure Statement Filed After B(2), but Prior to Payment of Issue Fee 37 CFR 1.97(d) An information disclosure statement will be considered by the examiner if filed on or after the mailing date of any of the following: a

final action under 37 CFR 1.113; a notice of allowance under 37 CFR 1.311; or an action that closes prosecution in the application, e.g., an Ex parte Quayle action, but before or simultaneous with payment of the issue fee, provided the statement is accompanied by:

(A) a statement as specified in 37 CFR 1.97(e) (see the discussion in subsection B(5); and
(B) the fee set forth in 37 CFR 1.17(p).

Applicants have satisfied the requirement set forth in 37 C.F.R. §1.97(d). However, an application may be removed from the Office of Patent Publication, without it being withdrawn from issue in order to permit the examiner to consider an information disclosure statement or whether one or more claims are unpatentable. Consideration of an IDS is not considered good and sufficient reasons for withdrawing an application from issue.

Accordingly, the petition is **Denied**.

Furthermore, it is noted that the time period for payment of the issue fee has expired and there is no record of receipt of the issue fee within the Office. Failure to have timely filed the issue fee would have rendered the subject application abandoned.

The examiner will consider the IDS submitted on November 23, 2004 and provide a copy of the considered IDS.

Mark Powell, Director
Technology Center 2600
Communications

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OCT 0 3 2005

OFFICE OF PETITIONS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

In re Application of :
ARIKAWA, Kouji :
Application No.: 10/731,599 :
Filing Date: December 8, 2003 :
Docket No.: 16869P-012510US :
For: METHOD AND APPARATUS FOR OPTICAL INFORMATION REPRODUCING :

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 15, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner, in reply to the Notice of Allowance mailed November 3, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 03, 2005.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the issue and publication fees, paid the petition fee and made the required statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

Erin P. Thomson

Erin Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Yuko Takeda et al.
Application No. 10/731,606
Filed: December 8, 2003
Attorney Docket No: 60395 (49381)

This is a decision on the petition to withdraw the holding of abandonment, filed April 25, 2008, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on October 25, 2007, for failure to file a timely response to the non-Final Office Action mailed July 24, 2007, which set a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed March 20, 2008.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed July 24, 2007 would have been filed, had it been received. To show that the Notice mailed July 24, 2007 was not received, petitioner also explains that after searching the docket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed July 24, 2007, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

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

This matter is being referred to Technology Center 2136 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: James M. Hayes	: DECISION ON REQUEST FOR
Patent Number	: 7620008	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,624	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1656** 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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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 05/18/2010

Applicant : James M. Hayes
Patent Number : 7620008
Issue Date : 11/17/2009
Application No : 10/731,624
Filed : 12/09/2003

: 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 **1723** 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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

In re Application of	:	
RASANEN, et al.	:	
Application No. 10/731,626	:	DECISION ON PETITION
Filed: December 09, 2003	:	TO WITHDRAW
Attorney Docket No. 108308-00034	:	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 23, 2006.

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

A review of the file record indicates that the power of attorney to WOODCOCK WASHBURN LLP has been revoked by the assignee of the patent application on October 06, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Patricia Volpe
Petitions Examiner
Office of Petitions

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/731,626	12/09/2003	Tiina-Liisa Rasanen	LCTD-0035

CONFIRMATION NO. 4756

OC000000021271813

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/06/2006.

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

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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

Mail Date: 04/21/2010

Applicant	: Srikanth Karimisetty	: DECISION ON REQUEST FOR
Patent Number	: 7600124	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,657	: 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 **1106** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHRISTIE PARKER & HALE LLP
P O BOX 7068
PASADENA, CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:
Jeffrey Matthew Cahill et al	:
Application No. 10/731,665	: DECISION GRANTING PETITION
Filed: December 9, 2003	: UNDER 37 CFR 1.182
Attorney Docket No. 50468/RVW/T522	:

This is in response to the communication filed October 7, 2005, which is being treated as a petition under 37 CFR 1.182 to change the order of the named inventors and to update the addresses of inventors Cahill and Bowman.

The petition is **GRANTED**.

A petition under 37 CFR 1.182 requires payment of a fee of $400. There is no indication that the petition was accompanied by the required fee of $400. Accordingly, as authorized in the transmittal letter filed with the application, which authorizes the charging of any fee due during the pendency of the application under 37 CFR 1.16 and 1.17, the $400 required fee will be charged to Deposit Account No. 03-1728.

A corrected Filing Receipt which sets forth the desired order of inventorship accompanies this decision on petition.

In view of the expedited issuance of applications, the desired inventor data may not appear on the printed patent. Therefore, petitioner may request a Certificate of Correction under 37 CFR 1.323 and pay the required fee of $100 therefor.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

OIPE IAP66
OCT 07 2005
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 5, 2005.

Debbie Prout

Appl No. : 10/731,665 Confirmation No. 6365
Applicant : Timothy C. Wikle, et al.
Filed : December 9, 2003
Title : GRIP AND FIREARM WITH GRIP HAVING HINGED PULL TAB

TC/A.U. : 3644
Examiner : Bret C. Hayes

Docket No. : 50648/DBP/T522
Customer No. : 23363

LETTER TO CORRECT ORDER OF NAMED INVENTORS

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

Post Office Box 7068
Pasadena, CA 91109-7068
October 5, 2005

Commissioner:

It is requested that the order of the named inventors be changed to read as follows:

Jeffrey Matthew Cahill (as first named inventor);

Timothy John Bowman (as second named inventor); and

Timothy Carver Wikle (as third named inventor).

It is also requested that the addresses for inventors Jeffery M. Cahill and Timothy J. Bowman be updated as follows:

Jeffrey Matthew Cahill

988 S. Marjan Street

Anaheim, CA 92806

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SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Srikanth Karimisetty	: DECISION ON REQUEST FOR
Patent Number	: 7650512	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,673	: 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 **1038** 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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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Daniel J. Lenehan	: DECISION ON REQUEST FOR
Patent Number	: 7591302	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,674	: 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 **652** 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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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 05/18/2010

Applicant : Daniel J. Lenehan
Patent Number : 7591302
Issue Date : 09/22/2009
Application No : 10/731,674
Filed : 12/08/2003

: 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 **719** 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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53 W. JACKSON BLVD
CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Patent No. 6,879,284	:	
Issued: 12 April, 2005	:	
Application No. 10/731,677	:	ON PETITION
Filed: 9 December, 2003	:	
Attorney Docket Number 13718	:	

This is a decision on the petition under 37 CFR 1.182, filed on 18 December, 2006, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about 12 April, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Although petitioners' counsel states that the original Letters Patent was lost or destroyed, it is not clear whether the

original Letters Patent was never received or was lost after receipt. Additionally, petitioners have not provided sufficient supporting documentation (*i.e*, a copy of the docket record or file jacket where the Letters Patent would have been entered had it been received must be attached to and referenced in practitioner's statement) showing that the original Letters Patent was not received.

Nevertheless, as petitioner has submitted the petition fee, the petition is granted.

It is noted that although petitioners submitted a check for $130.00, the required fee is $400.00. The additional amount due will be charged to counsel's deposit account as authorized in the petition.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The file is being forwarded to the Files Repository since it is not necessary for issuance of a duplicate Letters Patent.

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

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower 8C32 (FAX 571-270-9937)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 9, 2007

TO SPE OF : ART UNIT 2116

SUBJECT : Request for Certificate of Correction for Appl. No. 10/731679 patent no.6845458

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: Title change to clarify & mostly Typographical errors corrected.

REHANA PERVEEN
SUPERVISORY PATENT EXAMINER
SPE

2116
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD, IL 61107

Mail Date: 04/20/2010

Applicant	: Atul Kelkar	: DECISION ON REQUEST FOR
Patent Number	: 7623993	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1084** 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 23313-1450
WWW.USPTO.GOV

Mailed: DEC 2 8 2004

Paper No. 12-28-04

In re Application of Charles R. Rapier et al.
Serial No.: 10/731748
Filed: 12/9/2003

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: Reactor and Process for Converting Alkanes to Alkenes

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed November 15, 2004 to correct inventorship under 37 CFR 1.48(a) by adding the names of Lisa M. Budin, Sriram Ramani and Joe D. Allison to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Glenn A. Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

Correspondence Address:

Tod T. Tumey
P.O. Box 3267
Houston, Texas 77253-3267

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,748	12/09/2003	Charles R. Rapier	1856-42300 (9719.0-02)	4300

31889 7590 03/28/2006

DAVID W. WESTPHAL
CONOCOPHILLIPS COMPANY - I.P. Legal
P.O. BOX 1267
PONONCA CITY, OK 74602-1267

EXAMINER
DANG, THUAN D

ART UNIT	PAPER NUMBER
1764	

DATE MAILED: 03/28/2006

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	032206

DATE MAILED:

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

Commissioner for Patents

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:

Attorney Docket No.: 1856-42300(9719.0.02)

In re Application of Rapier et al
Serial No.: 10731748
Filed: December 9, 2003

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: Reactor and Process for Converting Alkanes to Alkenes

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed Jan 9, 2006 to correct inventorship under 37 CFR 1.48(a) by adding the names of James A. McMahon to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and the appropriate section of the Patent and Trademark Office for correction of the record.

Glenn A. Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

Todd Turney
Reg. No. 47,146
Conley Rose, P.C.
P. 0. Box 3267
Houston, Texas 77253-3267
(713) 238-8000

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/X 3999
DALLAS, TX 75265

COPY MAILED
JAN 17 2008
OFFICE OF PETITIONS

In re Application of :
Reid Edmund TATGE, et al :
Application No. 10/731,766 : DECISION ON PETITION
Filed: December 9, 2003 :
Attorney Docket No. TI-35556 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2007 and supplemented on December 28, 2007 , to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 8, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500, 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 document must be

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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2192 for appropriate action by the Examiner in the normal course of business on the reply received

April Wise
Petitions Examiner
Office of Petitions

cc: L. JOY GRIEBENOW
CONLEY ROSE, P.C.
155 BOARDWALK
SUITE 300
FORT COLLINS, CO 80525

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Date :03/05/07

Patent No. : 7159070 B2
Ser. No. : 10/731,796
Inventor(s) : KILIAN, MICHAEL
Issued : 01/02/07
Title : **METHODS AND APPARATUS FOR CACHING A LOCATION INDEX IN A DATA STORAGE SYSTEM**
Docket No. : E0295.70196US00

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

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

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

LMN

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OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

In re Patent No. 7,159,070 :
Issue Date: January 2, 2007 :
Application No. 10/731,796 : ON PETITION
Filed: December 9, 2003 :
Attorney Docket No. E0295.70196US00 :

This is a decision on the petition filed March 29, 2007, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

OIPE IAP51
MAR 2 9 2007
PATENT & TRADEMARK OFFICE

DAC
IW

Docket No.: E0295.70196US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Stephen J. Todd, et al.
Serial No.:	10/731,796
Confirmation No.:	4319
Filed:	December 9, 2003
Patent No.:	7,159,070
For:	METHODS AND APPARATUS FOR CACHING A LOCATION INDEX IN A DATA STORAGE SYSTEM
Examiner:	L. Iwashko
Art Unit:	2186

Adjustment date: 11/12/2009 CKHLOK
03/30/2007 AWONDAF1 00000099 10731796
01 FC:1464 -130.00 OP

Certificate of Mailing Under 37 CFR 1.8(a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: March 26, 2007

Eileen M. MacKenzie

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

11/12/2009 CKHLOK 00000001 7159070
01 FC:1464 130.00 OP

Dear Sir:

REQUEST UNDER 37 C.F.R. §3.81(b) FOR CORRECTION TO STATE THE NAME OF THE ASSIGNEE

Applicants hereby request, under 37 C.F.R. §3.81(b), that the patent issued from the above identified application be corrected to state the name of the Assignee ("EMC Corporation").

The assignment document, submitted for recordation in accordance with 37 C.F.R. §3.11 prior to issuance of the patent, and recorded on December 9, 2003 on Reel 014787, frame 0158 (copy enclosed), identifies EMC Corporation as the assignee of this patent. Applicants inadvertently omitted the assignee information on the issue fee transmittal at the time the issue fee was paid. The error was not discovered until the patent issued.

Pursuant to 37 C.F.R. §3.81(b), a request for issuance of a Certificate of Correction to correct this error is enclosed. Applicants wish to point out that the correction requested does not involve

03/30/2007 AWONDAF1 00000099 10731796
01 FC:1464 130.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Brian A. Hargreaves	: DECISION ON REQUEST FOR
Patent Number	: 7576535	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/731,799	: 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 **1608** 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.

17 DEC 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of BURTON et al. Application No.: 10/731,816 Filed: December 09, 2003 Attorney Docket No.: CQ10430 For: METHODS AND APPARATUS FOR MONITORING CONSCIOUSNESS	: : : : : : :	DECISION ON PETITION

This decision is issued in response to applicant's Petition under 37 CFR 1.78(a)(3) dated November 06, 2009 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 set forth set forth in the amendment filed concurrently with the instant petition.

The petition is <u>GRANTED</u>.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international 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).

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment filed with present petition, 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 international 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 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 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3735 for appropriate action on the amendment filed November 06, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed application.

Boris Milef
Senior PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 22 2005

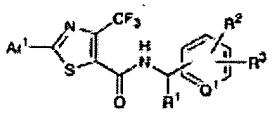
STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P. O. BOX 4000
PRINCETON, NJ 08543-4000

In re Application of	:
Kenneth M. Boy et al	:
Serial No.: 10/731,854	: PETITION DECISION
Filed: December 9, 2003	:
Attorney Docket No.: CT-2709 NP	:

This is in response to the petition under 37 CFR 1.144, filed April 5, 2005, requesting withdrawal or modification of an improper 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 1-17. In a first Office action, mailed July 29, 2004, the examiner set forth a restriction requirement based on Formula I, as follows:



I

Group I – instances where Q represents CH;
Group II – instances where Q represents N;
Group III – Claims 12-17 drawn to multiple uses.

The examiner reasoned that the compounds (i.e. claims 1-11) are patentably distinct from each other and have different fields of search based on their classification. The examiner also reasoned that the method of use was distinct from the product claims based on different uses and capability to use other products in the claimed method. The examiner further required an election of species for which ever group was elected.

Applicants replied on August 18, 2004, electing Group I with traverse, arguing that the compounds of Groups I and II share a significant structural similarity and should be examined

together and that any search for the compounds would of necessity also be a search for their uses. Applicants also identified a species for examination, as required.

The examiner mailed a new Office action to applicants on October 15, 2004, responding to the traversal by maintaining that the compounds do not share a significant structural similarity and therefore, the restriction is proper. The examiner then noted the species elected and defined a "genus" drawn therefrom which was examined. Claim 1 was rejected under 35 U.S.C. 112, first paragraph, for lack of written description. Claims 2, 5-8 and 10-11 were indicated allowable, but dependent on a rejected claim. All other claims were withdrawn from consideration as non-elected.

Applicants replied on January 5, 2005, by amending claim 1 to limit it to the compounds of Group I and canceling claim 2. Applicants further traversed the restriction requirement by noting that all of the claims had been limited to the compounds of Group I (Q is CH), but that claims 3, 4 and 9 had been withdrawn by the examiner even though they are within the scope of the genus identified in claim 1. The rejection was argued as having been overcome by the amendments. Applicants also requested rejoinder of the method claims.

The examiner mailed a new non-Final Office action to applicants on March 23, 2005, setting a three month shortened statutory period for reply. The examiner responded to the continued traversal of the restriction requirement citing burden on the Office and made the requirement Final. Claim 1 was objected to as containing non-elected subject matter and a requirement made to cancel such subject matter.

This petition was filed April 5, 2005, requesting review of the examiner's procedure following applicants' election and requirement to cancel non-elected inventions.

DISCUSSION

Applicants request in their petition that the examiner be directed to examine withdrawn claims 3, 4 and 9, to rule that claims 1-2, 5-8 and 10-11, as amended, do not contain non-elected subject matter and to rejoin method claims 12-17. Applicants do not argue the restriction between Groups I and II above in view of the fact that compounds of Group II have been canceled from the claims.

A review of the examiner's actions shows that following election of a species within elected Group I the examiner indicated what the value of most of the variables would be and, in effect, carved from the genus of compounds of claim 1 a subgenus which was indicated to have been examined and found to be allowable over the prior art. The effect of this is that the examiner has determined what applicants' claim scope will be. This is not the examiner's function, but applicants. The examiner's function is to determine whether the scope of the claim as set forth by applicants is patentable. The examiner, by dividing the claims into two Markush groups based on the value of Q in essence determined that all compounds falling within the scope of each Group noted above are related and would be examined together. Use of the election of species tool by the examiner was proper in this instance since the number of compounds within each group is very large and by requiring applicants to elect a species for purposes of initial

examination the burden of the examiner is lessened. However, use of the election of species tool requires an examiner to follow the guidelines set forth in M.P.E.P. 803.02, namely to determine whether the elected species is free of the prior art, as in this instance, and then to expand the examination to a reasonable number of additional species which the examiner has done here. However, it does not permit the examiner to limit applicants' claims to only those species examined (termed by applicants as intraclaim restriction). The section specifically states that when all examined species (i.e. – less than the total number of species present) are found to be free of the prior art, then the genus (as defined in the claim) is considered to be free of the prior art and will be further examined for compliance with respect to all other pertinent sections of the statute. By restricting applicants' claims to the subgenus examined the examiner has failed to follow these guidelines.

With respect to the restriction between Groups I and III, product and method of use of the product, although not argued in the petition, the request for rejoinder was argued in applicants' traversals of the restriction requirement. In accordance with the decision of *In re Ochiai* when product and method of making or method of using a product claims are present, restriction may be appropriate, as here. However, where product claims are elected for prosecution and are found allowable in all respects, rejoinder of method claims having the same scope as the allowable product claims (as here) is required. Any rejoined method claims will then be examined for compliance with all applicable sections of the statute. In view of the examiner's indication of patentability of the product claims (or at least an examined portion thereof) rejoinder of the method claims herein is required.

DECISION

The petition is **GRANTED**. In view of this decision, the last Office action is found to be incomplete and is withdrawn.

The application will be forwarded to the examiner for preparation of a new action on the merits 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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SAUL EPSTEIN
14558 DEERVALE PLACE
SHERMAN OAKS, CA 91403

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AUG 2 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Kenneth R. Wilkes	:	
Application No. 10/731,855	:	DECISION ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition, filed April 10, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the nonfinal Office action mailed July 21, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 23, 2007.

Petitioner asserts that the Office action dated July 21, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived 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 lacks item (3) set forth above.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of July 21, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

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

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

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

SAUL EPSTEIN
14558 DEERVALE PLACE
SHERMAN OAKS, CA 91403

In re Application of	:	
Kenneth R. Wilkes	:	
Application No. 10/731,855	:	ON PETITION
Filed: December 8, 2003	:	
Attorney Docket No.	:	

This is a decision on the renewed petition filed October 23, 2007, which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 21, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 22, 2006.

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

This matter is being referred to Technology Center AU 3782 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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 10/731872 received on 01/08/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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PATENT & TRADEMARK OFFICE

FILE COPY

PATENT APPLICATION
Docket No: 9312.52

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	Ruben R. Lah	)
Serial No.:	10/731,874	) Art Unit 1764 Doroshenk
Confirmation No.:	Unknown	)
Filed:	December 09, 2003	)
For:	VALVE SYSTEM AND METHOD FOR UNHEADING A COKE DRUM	)

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

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

Dear Sir or Madam:

Applicants respectfully request that examination of the above-referenced patent application be advanced out of turn and that prosecution be performed in an expedited manner. Applicants believe all claims are directed to a single invention and will make an election without traverse if the Office determines that all claims are not obviously directed to a single invention. Applicants submit this written Petition to Make Special in conformance with 37 C.F.R. § 1.102(d), along with the appropriate fee as set forth in 37 C.F.R. § 1.17(h).

Applicants have caused to be made a careful and thorough pre-examination search of the prior art. This search was performed by a professional search firm under the direction of Noreen

11/15/2004 HALI11 00000012 10731874
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KIRTON & MCCONKLE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P.O. BOX 45120
SALT LAKE CITY, UT 84145-0120

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of :
Ruben F. Lah :
Application No. 10/731,874 : ON PETITION
Filed: December 9, 2003 :
Attorney Docket No. 9312.52

This is a decision on the petition, filed December 9, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 2, 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 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

In re Application of	:	
Ruben F. Lah	:	
Application No. 10/731,874	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 9312.52	:	

This is a decision on the petition, filed July 26, 2006, and supplemented on July 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 February 2, 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 1764 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : July 31, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Rubin F. Lah
Application No. :10/731,874
Filed :December 9, 2003

The above-identified application has been assigned Patent No. 7,087,141 and an issue date of August 8, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 8, 2006:

"All reference to Patent No. 7,087,141 to Ruben F. Lah of Utah for VALVE SYSTEM AND METHOD FOR UNHEADING A COKE DRUM appearing in the Official Gazette of August 8, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of
THOMAS, et al.
Application No. 10/731,875
Filed: December 9, 2003
Attorney Docket No. 9692-000029

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 27, 2006.

The request is **NOT APPROVED**.

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

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

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PAUL D. THOMAS**
1571 ELEVENTH AVENUE
SAN FRANCISCO, CA 94122

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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Richard L. Byrne
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh PA 15219-1818

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Furuya et al.	:	
Application No. 10/731879	:	DECISION
Filing or 371(c) Date: 12/09/2003	:	ON PETITION
Patent No.: 7233082	:	
Issue Date: 06/19/2007	:	
Attorney Docket Number: 4466-032356	:	

This is a decision on the correspondence entitled "Petition for Suspension of Rules (37 CFR 1.183),, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1]. The delay in treating this request is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), (filed December 13, 2006), and the fee submitted with the present petition. Further, Office assignment records reflect that Ebara Corporation and Ebara Densan Ltd:, are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Derek L. Woods
Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 26, 2010

TO SPE OF : ART UNIT 3766
SUBJECT : Request for Certificate of Correction for Appl. No.: 10731881
Patent No.: 7392089

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 – 9D40-C
Palm Location 7580

VALERIE JACKSON

Certificates of Correction Branch
703-756-1573 x114

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: PLEASE ENTER THE PROPOSED CHANGES. THEY DO NOT AFFECT THE SCOPE OF THE CLAIMS.

Carl H. Layno — **SPE**

3766 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

St. Jude Medical Neuromodulation Division
6901 Preston Road
Plano TX 75024

In re Application of	:	
Sheffield et al.	:	ON APPLICATION FOR PATENT
Application No.: 10/731892	:	TERM ADJUSTMENT
Filing or 371(c) Date: 12/09/2003	:	RECONSIDERATION
Patent Number: 7,565,199	:	
Issue Date: 07/21/2009	:	
Attorney Docket Number:	:	
337348055US1 (09-115 US)	:	

This is a Decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(D)," filed September 21, 2009. Patentees submit that the correct patent term adjustment to be indicated on the patent is 579 days, not 146 days.

The request for reconsideration patent term adjustment is **DISMISSED**.

On July 21, 2009, the above-identified application matured into U.S. Patent No. 7,565,199 with a patent term adjustment of 146 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees assert that the Office failed to properly account for the delay under 35 U.S.C.§ 154(b)(1)(A), the "A delay," which patentees assert is 458 days, and that the Office failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), the "B delay," which patentees assert if 485 days, as the first Request for Continued Examination ("RCE") was filed on April 7, 2008. Patentees further assert that the "A delay" and the "B delay" do not overlap. Accordingly, Patentees assert that the correct patent term adjustment for this patent is 579 days (458 days of "A Delay" *plus* 485 days of "B Delay" *less* zero overlapping days *less* by 364 days of Applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the RCE on April 7, 2008, the application was pending three years and 484 days after its filing date (December 10, 2006 to April 6, 2008). The Office

agrees that at the time of filing of the RCE on April 7, 2008, certain action detailed was not taken within a specified time frame, and thus, the entry of a period of adjustment of 433 days is correct. At issue is whether patentees should accrue 484 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 433 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 433 days of examination delay under 37 CFR 1.702(a) overlaps with the period of 484 days of delay in issuing the patent. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the

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

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

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

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, December 9, 2003, to April 6, 2008, the day before the date of filing of the RCE on April 7, 2008. Prior to the filing of the RCE, 433 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 433 days of examination delay overlap with the 484 days for Office delay in issuing the patent. During that time, the issuance of the patent

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

was delayed by 484 days, not 484 days + 433 days. The Office took 14 months and 433 days to issue a first Office action. Nonetheless, given the initial 433 days of Office examination delay and the time allowed within the time frames for processing and examination, at the time of filing of the RCE, the application was pending three years and 484 days after its filing date. However, the Office did not delay 484 days and also delay an additional 433 days.

Accordingly, at issuance, the Office entered an overall adjustment of 146 days, having considered the Office delay under the three-year pendency provision in conjunction with the examination delay under 37 CFR 1.702(a) and the applicant delay under 37 CFR 1.704.

In view thereof, no additional patent term adjustment has been accorded.

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

The address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record. Applicant is further advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

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

/ALESIA M. BROWN/

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

CC: PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

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Eric D. Jorgenson
Amin & Turocy, LLP
1900 E. 9th Street
National City Center, 24th Floor
Cleveland OH 44114

COPY MAILED

JUN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael T. McKibben, et al.	:	
Application No. 10/731,906	:	DECISION ON REQUEST
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. LEADP101USA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 2, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "The client failed to provide sufficient resources to prosecute the case", 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 Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: Michael T. McKibben
Leader Technologies
921 Eastwind Drive, Suite 118
Westerville, OH 43081

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AMIN & TUROCY, LLP
1900 E. 9TH STREET
NATIONAL CITY CENTER, 24TH FLOOR
CLEVELAND, OH 44114

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael T. Mckibben, et al.	:	
Application No. 10/731,906	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. LEADP101USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 6, 2006.

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

The petition in the above-identified application was not accompanied by the required reply, nor was a reply previously filed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 .

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

The Power of Attorney filed with the petition on January 11, 2007 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

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

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: ERIC D. JORGENSON
1457 KING ROAD
HINCKLEY, OH 44233

Attachments: Blank copy of Statement under 37 CFR 3.73(b)
Courtesy Copy of Office action dated July 5, 2006

PTO/SB/96 (04-07)
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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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:
1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

Attachment

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,906	12/10/2003	Michael T. McKibben	LEADP101USA	5793

7590 07/05/2006

Amin & Turocy, LLP
1900 E. 9th Street
National City Center, 24th Floor
Cleveland, OH 44114

EXAMINER
ROSE, HELENE ROBERTA

ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 07/05/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/731,906	MCKIBBEN ET AL.	
	Examiner	Art Unit	
	Helene Rose	2163	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 12/10/2003.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-37 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-37 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 10 December 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 4/27/05 & 7/26/04.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Detailed Action

1, Claims 1-37 are presented for examination.

2. Claims 1-37 have been rejected.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 7/26/2004 and 4/27/2005, accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections – 35 U.S.C – 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim Rejections – 35 U.S.C – 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1, 16, 31 and 37 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter.

The basis of this rejection is that no manipulation of data nor is there any transformation of data from one state to another state being performed in "A system that facilitates the association of data" and "A method that facilitates associating data"; therefore, there is no post-computer process activity found in the technological arts as it relates to the method and system that facilitates associating data. "A system that facilitates associating data" and "A method that facilitates that facilitates associated data is not a physical transformation". In which, there is no physical transformation being performed, thus no practical application is found. The claims do not appear to correspond to a specific machine or manufacture disclose within the specification nor cover any product of the class configured in any manner to perform

the underlying process, in which, the claims analyzed based upon the underlying process and are rejected as being directed.

Examiner's Remarks that Applicant include claims 13 and 14, within claims 1, 16, and 37, wherein a computer and computer readable medium having stored thereon computer executable instructions for carrying out execution.

Claim Rejections – 35 U.S.C – 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-37 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMesa et al. (US Publication No. 2004/0117393, Filing Date of Publication: December 03, 2003).

<u>Claims 1,13-14 and 16</u>:

Regarding claims 1, 13-14, and 16, DeMesa et al teaches a computer/computer readable medium/system that facilitates the association of data with a user context, comprising:

a data component that is associated with one or more data operations being performed on the data (page 3, section [0041]), data organization (page 2, section [0014] and page 5, section [0064], DeMesa), data processing (page 4, sections [0057] and [0058]), and data storage (page 3, section [0042] and [0043], DeMesa); and

a tagging component that automatically tags contextual information to the data when the data is created (page 4, section [0049], wherein selecting a components from the catalog application, select menu option to create new view for that component, or select edit view to edit a view, wherein the

developer/user is directed to catalog application, DeMesa).

Claim 2:

Regarding claim 2, DeMesa teaches wherein the contextual information is tagged to the data when the data is being saved (page 5, section [0063], wherein the process of adding an existing component as a member, the user/developer continues adding members to the component until he or she indicates that all members have been added, DeMesa).

Claim 3:

Regarding claim 3, DeMesa teaches wherein the contextual information is tagged to the data when the data is first saved (page 5, section [0063], wherein the user developer makes this indication by selecting a save component definition menu option, the client development client updates the catalog application to include the name and icon of the new component, DeMesa).

Claim 4:

Regarding claim 4, DeMesa teaches the contextual information is representative of the user context that is associated with a board (page 4, section [0050], wherein Microsoft dynamic data exchange is define to be automatically moving information between applications resident in memory via the clipboard, DeMesa).

Claim 5:

Regarding claim 5, DeMesa teaches wherein the contextual information is automatically tagged to any type of data created in association with the user context (page 5, section [0063], wherein the data type can be a primitive type such as integer, decimal number, Boolean value, text string, or date, or an existing component, wherein the process of adding an existing component as a member is displayed within Figure 10, wherein the users/developer continues adding an existing component as a member, the user/developer continues adding members to the component until he or she indicates that all members have been added, DeMesa).

Claim 6:

Regarding claim 6, DeMesa teaches the contextual information includes a link to a storage location of the data (page 4, section [0057], DeMesa).

Claim 7:

Regarding claim 7, DeMesa teaches the contextual information includes a link to a storage location of the data, which link is assigned to each user of the user context in which the data was created (Figure 9, all features, DeMesa).

Claim 8:

Regarding claim 8, DeMesa teaches the contextual information is associated with the user context, which user context is further associated with an application tool that is used to generate the data (Figure 2, diagram 244, wherein it the component builder allows a developer or user to create and edit components, DeMesa).

Claim 9:

Regarding claim 9, DeMesa teaches the application tool includes a pointer for each user associated with the user context (page 4, section [0057], DeMesa).

Claim 10:

Regarding claim 10, DeMesa teaches wherein the pointer points to a storage location of the data (Figure 2, diagrams 206 and 20, DeMesa).

Claim 11:

Regarding claim 11, teaches the data component monitors the data being created from one or more applications that perform data operations related to **at least one** of: telephony, unified messaging, decision support, document management, portals, chat, collaboration, search, vote, relationship management, calendar, personal information management, profiling, video, directory management, executive information systems (Figure 2 and Figure 3, all features, DeMesa), dashboards, cockpits, tasking, meeting and, web and video conferencing.

Claim 12:

Regarding claim 12, DeMesa teaches the contextual information includes context data that is representative of a user context, which context data is automatically tagged to the data (page 1, section [0013] and [0014], wherein each view is graphically representation of a corresponding component, and may include, graphs, charts, animations, and/or other types of graphical elements to represent the associated data collected by the component, if a first component is a member of a second component, a first view associated with that first component my be inserted into second view associated with second component such that the first view is automatically displayed as a subset of the second view, wherein the system allows multiple views to be defined for the same component and allows users to developers to build different views and so forth, DeMesa).

Claim 15:

Regarding claim 15, DeMesa teaches wherein a data management tool that employs the system (Figure 2, all features and page 2, section [0011 and 0012], describes a data management tool, wherein a data management tool is defined; page 3, section [0038], wherein a representation of modules of application environment, and the development environment, comprises multiple solution servers, clients and page 4, section [0053], wherein relationships between objects by visual arrangement of label and/or icons associated with represented objects and page 3, section [0041]), data organization (page 2, section [0014] and page 5, section [0064]), data processing (page 4, sections [0057] and [0058]), and data storage (page 3, section [0042] and [0043], DeMesa).

Claim 17:

Regarding claim 17, DeMesa teaches the contextual information includes a link to a single storage location of the data (REFER to claim 6, wherein this limitation has been addressed, DeMesa).

Claim 18:

Regarding claim 18, DeMesa teaches the contextual information includes a link to a storage location of the data, which link is assigned to each user of a context in which the data was created (REFER to claim 7 wherein this limitation has been addressed, DeMesa).

Claim 19:

Regarding claim 19, DeMesa teaches the contextual information is associated with a context that is further associated with an application tool that generates the data, the application tool includes a pointer for each user associated with the context (page 2, section [0016], wherein each component is represented by a respective node or icon, wherein a user selects a node and view the associated data collected by that instance, DeMesa).

Claim 20:

Regarding claim 20, DeMesa teaches the pointer points to the only storage location of the data (REFER to claim 10, wherein this limitation has already been addressed, DeMesa).

Claim 21:

Regarding claim 21, DeMesa teaches the pointer is generated with a read-only access (page 4, section [0057], wherein run time retrieval of point data retrieves only the set or subset of point data that is requested by the displaying view, and only when requested, wherein by displaying view is interpreted to be read only access, DeMesa).

Claim 22:

Regarding claim 22, DeMesa teaches the one or more data operations cause updating of at least one of the contextual information and the data (page 5, section [0063], wherein the client development client updates the catalog application to include the name and icon, and sends the new component definition to the component table in the enterprise component, DeMesa).

Claim 23:

Regarding claim 23, DeMesa teaches the contextual information includes **at least one** of web ID, a board ID, a transversal to the location of the data, and parameters representative of the one or more data operations that can be performed on the data (page 3, section [0039], wherein a component may be comprised of identification number and page 2, section [0016], wherein a navigation tree a user may select a node, i.e. component instance, and wherein a navigation tree uses an web browser, DeMesa).

Claim 25:

Regarding claim 25, DeMesa teaches wherein tagging the contextual information to the data when the data is first being saved (REFER to claim 2, wherein this limitation has already been addressed, DeMesa).

Claim 26:

Regarding claim 26, DeMesa teaches wherein the contextual information is updated only after the data is has first been saved (REFER to claim 3, wherein this limitation has already been addressed, DeMesa).

Claim 27:

Regarding claim 27, DeMesa teaches tagging the contextual information to the data in accordance with a backup operation (page 1, section [0011], wherein the class base component and view model is within a system that uses reusable components and view to monitor operations, pages 5-6, sections [0066] and [0067], wherein the back-end environment is defined, DeMesa).

Claim 28:

Regarding claim 28, wherein linking one or more users of the user context to the data using the contextual information (page 6, section [0072], wherein the connection specification for each component member of the solution is stored in the component instance table and the name and the description of the solution are stored in the solution table, DeMesa).

Claim 29:

Regarding claim 29, DeMesa teaches wherein one or more users are granted at least read access to the data (page 2, section [0016], wherein a user can select a node, i.e. component instance, and view the associated data collected by that instance, if multiple views have been defined for an associated component, the user can select between these alternative views, wherein the users can access the navigation tree using ordinary web browser, DeMesa).

Claim 30:

Regarding claim 30, DeMesa teaches encoding the location of the stored data such that the encoded location is processed to access the stored data (page 1, section [0011], wherein the class base

component and view model is within a system that uses reusable components and view to monitor operations, which is equivalent to encoded; page 5, section [0059], wherein downloading applets, the browsing terminals displaying the views for display, the views defined by server, wherein if user are given access they may edit and create components wherein encode is defined to be convert data to machine-readable format and wherein an applet is defined to be applet to display scrolling text in a specific area, or animations, wherein this is equivalent to encoded; page 3, section [0041], wherein the animation module is defined, DeMesa).

Claim 32:

Regarding claim 32, DeMesa teaches wherein the user and the one or more other users are associated with a user context of the user (page 6, section [0071] and section [0072], wherein if the user/developer indicates he/she has completed connecting members to back-end data, then the solution builder proceeds, DeMesa).

Claim 33:

Regarding claim 33, DeMesa teaches wherein linking the data with the one or more other users of other respective user contexts (REFER to claim 28, wherein this limitation has already been addressed, DeMesa)

Claim 34:

Regarding claim 34, DeMesa teaches wherein the data is linked using a webslice (page 3, section [0036]; page 4, section [0050], wherein Microsoft dynamic data exchange is define to be automatically moving information between applications resident in memory via the clipboard, which is interpret to be the webslice, section [0051], wherein each connector has an associated connector type such as DDE, Oracle, and so forth, DeMesa).

Claim 35:

Regarding claim 35, DeMesa teaches wherein the user is linked to the data from another context to which the user has access (page 4, section [0048], wherein access is granted, which is when a user is able to create and modify components and further defined on page 5, section [0059], wherein from the browsing terminals user can select one or more existing views for display, but cannot update components

views or solutions, if the user is given access they can create and edit components, views, and solutions from the development clients, DeMesa).

Claims 24, 31 and 36:

Regarding claims 24, 31 and 36, discloses a method/computer readable medium utilizing the same functionality.

DeMesa teaches a method/computer-readable medium having computer-executable instructions for performing a method that facilitates associating data with a user, the method comprising:

providing a collaboration data management tool for at least many-to-many functionality (Figure 2, all features and page 2, section [0011 and 0012], describes a data management tool, wherein a data management tool is defined; page 3, section [0038], wherein a representation of modules of application environment, and the development environment, comprises multiple solution servers, clients and page 4, section [0053], wherein relationships between objects by visual arrangement of label and/or icons associated with represented objects, DeMesa), the tool facilitates data operations on data related to at least one of data communications (page 3, section [0041]), data organization (page 2, section [0014] and page 5, section [0064]), data processing (page 4, sections [0057] and [0058]), and data storage (page 3, section [0042] and [0043], DeMesa);

performing one or more data operations on the data (see abstract, wherein many different components and view may be defined and deployed to build an informational model of business entity such as business that operates processing or manufacturing plants in various locations, DeMesa);

automatically tagging contextual information related to the user to the data (Figure 13, wherein production is illustrated along with the production inventory items, which is equivalent to a data content related to a user, DeMesa);

updating the contextual information based upon the one or more data operations (page 4, section [0054], wherein a develop or user may update the solution through a menu option, wherein this action updates the solution to include the latest changes to components); and

linking the user with the location of the data (page 7, section [0077], wherein animation contain references to component members that are linked through a solution to collect data from back-end data sources).

Claim 37:

Regarding claim 37, DeMesa teaches a system that facilitates the association of data with a user context in a many-to-many data regime data (page 2, section [0014], wherein different people within a business organization may demand different views that connect to the same data; section [0016], wherein using the navigation tree, a user can select a node, i.e. component instance, and view the associated data collected by that instance, if multiple views have been defined for an associated component the user can select between the alternative views and page 3, section [0039], wherein a component is a reusable software resource that contains and represents information associated with a data source such as a business entity, wherein a component may represent a collection and by using components to represent business elements the system facilitates user understanding in term of the business process, DeMesa) comprising:

means for performing one or more data operations on the data (see abstract, wherein many different components and view may be defined and deployed to build an informational model of business entity such as business that operates processing or manufacturing plants in various locations, DeMesa);

means for automatically tagging to the data contextual information related to the user context (Figure 13, wherein production is illustrated along with the production inventory items, which is equivalent to a data content related to a user, DeMesa);

means for updating the contextual information based upon the one or more data operations (page 4, section [0054], wherein a develop or user may update the solution through a menu option, wherein this action updates the solution to include the latest changes to components, DeMesa); and

means for linking the user with the location of the data (page 7, section [0077], wherein animation contain references to component members that are linked through a solution to collect data from back-end data sources, DeMesa).

Prior art of Record

(The prior art made of record and not relied upon is considered pertinent to applicant's disclosure)

1. Murphy et al. (US Patent No. 5,488,686) discloses a data processing system which defines a plurality of logical workspaces for performing task in response to operations performed by a system user and provides communication between two or more of the workspaces.

2. McKelvie et al. (US Publication No. 2003/0217096) discloses a network-based messaging system comprises multiple users in a real time using, for example, an XML document synchronization model.

3. DeMesa et al (US Patent No. 6,700,590) discloses a system and method for retrieving and presenting data using class-based component and view model.

4. Meyerzon et al (US Patent No.) discloses computer base method and system for processing data obtained from documents retrieved from a computer network during a gathering project.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Rose whose telephone number is (571) 272-0749. The examiner can normally be reached on 8:00am - 4:30pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Helene Rose
Technology Center 2100
May 30, 2006

ALFORD KINDRED
PRIMARY EXAMINER

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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TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI, OH 45202-3957

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael T. Mckibben, et al.	:	
Application No. 10/731,906	:	DECISION ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. LET01-GN005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provision of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750, and (3) 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 2163 appropriate action by the Examiner in the normal course of business on the reply received October 29, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/731,906	12/10/2003	Michael T. McKibben	LEADP101USA

CONFIRMATION NO. 5793

POA ACCEPTANCE LETTER

30074
TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI, OH 45202-3957

OC000000029380587

Date Mailed: 04/14/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2007.

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

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1457 KING ROAD
HINCKLEY, OH 44233

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OFFICE OF PETITIONS

In re Application of	:	
Michael T. McKibben, et al.	:	
Application No. 10/731,906	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. LEADP101USA	:	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, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Eric D. Jorgenson, ESQ. has been revoked by the assignee of the patent application on October 29, 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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: LEADER TECHNOLOGIES INCORPORATED
921 EASTWIND DRIVE
SUITE 118
WESTERVILLE, OH 43081

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PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark Pearson et al.	:	
Application No. 10/731,916	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. 24207-10064	:	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 10, 2005.

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

A review of the file record indicates that the power of attorney to Kilpatrick Stockton LLP has been revoked by the assignee of the patent application on April 28, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **GOOGLE / FENWICK**
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW CA 94041

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JUN 20 2006

OFFICE OF PETITIONS

OWENS-ILLINOIS, INC.
ONE SEAGATE, 25-LDP
TOLEDO, OH 43666

In re Application of
Philip J. Robinson
Application No. 10/731,926
Filed: December 9, 2003
Attorney Docket No. 18388 USA

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 23, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 8, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

The 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 28, 2006 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3727 for further prosecution.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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PO BOX 10395
CHICAGO IL 60610

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Kahlon et al.	:	
Application No. 10/731,936	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 10541-1927	:	

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

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase
Petitions Examiner
Office of Petitions

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Susan M. Donahue
Rockwell Automation
704-P, IP Department
1201 South 2nd Street
Milwaukee, WI 53204

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AUG 05 2008

In re Application of	:	
David M. Callaghan, et al.	:	
Application No. 10/731,940	:	DECISION ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 03AB1118A/ALBRP331USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 Non-Final Rejection mailed, March 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on June 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment after Non-Final, (2) the petition fee of $1540, and (3) an adequate statement of unintentional delay.

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed.

A courtesy copy of this decision is being mailed to the address given in the petition. Nevertheless, all future correspondence will be mailed to the address of record.

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

This application is being referred to Technology Center AU 2178 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Amin, Turocy & Calvin, LLP
24th Floor, National City Center
1900 E. 9th Street
Cleveland, OH 44114

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/26/2010

Applicant	: Edward C. Benzel	: DECISION ON REQUEST FOR
Patent Number	: 7588600	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/731,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/731,956 Patent No.: 6875632 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

LYNNE GURLEY
SUPERVISORY PATENT EXAMINER

Lynne A. Gurley — **SPE**

2811 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/731,956 Patent No.: 6875632 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

LYNNE GURLEY
SUPERVISORY PATENT EXAMINER

SPE — 2811 Art Unit

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/4/08

TO SPE OF : ART UNIT 1648 Hill Myron

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/731988 Patent No.: 7226780

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

B Campell — SPE

1648 — Art Unit

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Todd O. Bolken et al	:	
Application No. 10/731,995	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 6047-67518	:	

This is a decision on the petition, filed January 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 2812 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

SPE: L. Morris

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/14/07

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/732,000 Patent No.: 6991061

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: _____

Leslie D Morris — **SPE**

3611 — **Art Unit**

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OFFICE OF PETITIONS

Diane Dunn McKay, Esq.
Mathews, Collins, Shepherd & McKay, P.A.
Suite 306
100 Thanet Circle
Princeton, NJ 08540

In re Application of	:	DECISION GRANTING
Wang, et al.	:	PETITION UNDER 37 CFR
Application No. 10/732,003	:	1.137(f)
Filed: December 10, 2003	:	
Attorney Docket No.: 4980-103 US	:	

This decision is in response to the petition under 37 CFR 1.137(f), filed February 27, 2006.

The petition is hereby **GRANTED**.

Petitioners state that the instant non-provisional application is the subject of an application filed December 6, 3005 in a foreign country, or under a multinational treaty, that requires publication of applications eighteen months after filing. Petitioners' further state that petitioners unintentionally failed to notify the Office of this filing within 45 days of the filing of the subject application in a foreign country.

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

A grantable petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply; (2) the petition fee; (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; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found to be in compliance with the provisions of 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Enclosed please find a Notice regarding rescission.

This application is being forwarded to Technology Center 2600 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

Enclosures: Notice Regarding Rescission
Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
Wilhelmus H. Boesten, et al.	:	
Application No. 10/732,011	:	DECISION ON PETITION
Filed: December 9, 2006	:	TO WITHDRAW
Attorney Docket No. 246152018600	:	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 29, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foester, LLP has been revoked by the assignee of the patent application on September 14, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. BRYAN H. DAVIDSON
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203-1808

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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
10/732,011	12/09/2003	Wilhelmus Hubertus Joseph Boesten	246152018600

CONFIRMATION NO. 6252

OC000000021315789

OC000000021315789

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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FULWIDER PATTON
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of
Joel Marks
Application No. 10/732,029
Filed: December 11, 2003
Attorney Docket No. WORKT-72209(DT3)

ON PETITION

This is a decision on the petition filed October 24, 2005, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on April 11, 2005, for failure to file a timely response to a Restriction Requirement mailed March 8, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed September 16, 2005.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed October 24, 2005 will be referred to Technology Center 3721 for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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OFFICE OF THE DIRECTOR
TC 3600

DECKER, JONES, MCMACKIN, MCCLANE,
HALL & BATES, P.C.
BURNETT PLAZA 2000
801 CHERRY STREET, UNIT #46
FORT WORTH TX 76102-6836

In re application of
Timothy E. Barnes
Application No. 10/732,031
Filed: December 10, 2003
For: PROTECTIVE CAGE FOR MOTORCYCLE ENGINE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 1, 2004 to make the above-identified application special.

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

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

The petition filed March 1, 2004 meets 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.

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

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

KJD/mjz: 5/25/04

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FLOYD A. GONZALEZ
IBM CORPORATION, INTELLECTUAL PROPERTY LAW DEPT.
MS P386
2455 SOUTH ROAD
POUGHKEEPSIE, NY 12601

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Gerwig et al.	:
Application No. 10/732,039	:
Filed: December 10, 2003	:
Attorney Docket No. DE920010045US1	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 3, 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 2100 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE, SUITE 400
NEWPORT BEACH, CA 92660

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OFFICE OF PETITIONS

In re Application of	:
Yulun Wang et al	:
Application No. 10/732,056	: DECISION ON PETITION
Filed: December 9, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 157438-0021	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 9, 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 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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition fails to satisfy item (1) above. In this regard, the Application Serial No. 11/138,595, filed May 25, 2005 has a later filing date than the above identified application. *Note* 35 U.S.C. § 120, which provides, in relevant part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director.

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

David Bucci
Petition Examiner
Office of Petitions

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wk

Mailed: 8-9-07

In re application of	:	
Sung-Ho, Hong	:	DECISION ON
Serial No. 10/732,082	:	PETITION
Filed: December 9, 2003	:	
For: Vanadium/Titania-Based Catalyst For Removing Nitrogen Oxide At Low Temperature Window And Process Of Removing Nitrogen Oxide Using The Same	:	

This is a decision on the petition filed on March 21, 2007 filed under 37 C.F.R. 1.10(a) TO CORRECT MAILING OF RESPONSE DATE. The petition requests that the mailing date of the response be corrected to indicate the date of March 8, 2007.

DECISION

The petition is **GRANTED**.

Jacqueline M. Stone/wk

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Jay S. Cinamon
ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York NY 10017-5621

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WOLF, BLOCK, SHORR AND SOLIS-COHEN LLP
250 PARK AVENUE, 10TH FLOOR
NEW YORK NY 10177

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OFFICE OF PETITIONS

In re Application of
SHECHTMAN, et al.
Application No. 10/732,164
Filed: December 10, 2003
Attorney Docket No. **MIL340-229036**

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 11, 2007 and re-submitted January 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "our client, an Israeli patent firm, no longer represents the applicant", does not meet any of the conditions set forth in 37 CFR 10.40.

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

concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ADI SHECHTMAN**
49 TAVOR STREET
NOFIT, ISRAEL 36001

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

Applicant	: Alfio Castorina	: DECISION ON REQUEST FOR
Patent Number	: 7630003	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/732,186	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1731** 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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

In re Application of Chin-Chung Nien et al. Application No. 10/732,265 Filed: December 11, 2003 Attorney Docket No.: BHT-3111-395 Title: IMPRINT METHOD FOR MANUFACTURING MICRO CAPACITIVE ULTRASONIC TRANSDUCER	:	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed August 9, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit a proper response in a timely manner in reply to an Ex Parte Quayle action, mailed December 13, 2005, which set a shortened statutory period for reply of two months. An amendment was received on February 13, 2006, and a second Ex Parte Quayle action was mailed on May 1, 2006. The second Ex Parte Quayle action indicated that the application was not in condition for allowance as the response was not fully responsive to the prior Office Action, and set a shortened statutory period for response of one month. No responses or extensions of time were received. Accordingly, the above-identified application became abandoned on June 2, 2006. A Notice of Abandonment was mailed on June 28, 2006.

With the present petition, Petitioner has indicated that the second Ex Parte Quayle action set a one-month extendable period

for response. As such, Petitioner was in a position to purchase up to a five-month extension of time.

Petitioner's arguments have been considered, and they have been deemed to be persuasive. Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision.

It is noted in passing that neither an extension of time nor an amendment was filed in conjunction with this petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

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SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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OFFICE OF PETITIONS

In re Application of	:	
Chin-Chung **Nien** et al.	:	
Application No. 10/732,265	:	DECISION ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. BHT/3111-395	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 01, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the notice of informal or non-responsive amendment mailed May 01, 2006, which set a 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 June 02, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1763 for appropriate action by the Examiner in the normal course of business on the reply received

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE MD 21202-1626

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OFFICE OF PETITIONS

In re Application of :
Otto Gossweiler :
Application No. 10/732,268 : ON PETITION
Filed: December 11, 2003 :
Attorney Docket No. 010564/00080 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 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 issue fee and publication fee; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee and publication fee, which were submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of Woo-Nam Jeong et al. Application No. 10/732,274 Filed: December 11, 2003 Attorney Docket No.: 053785-5144 Title: METHOD OF FABRICATING LIQUID CRYSTAL DISPLAY DEVICE HAVING CONCAVE REFLECTOR	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181

This is a decision on the petition filed on January 28, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

On March 1, 2007, a Pre-Appeal Brief Request for Review was filed along with a Notice of Appeal. On September 26, 2007, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed, indicating that the application remained under appeal. The notice indicated that a response was due by October 26, 2007, and that extensions of time were available. No response was received, and no extension of time was requested. As such, this application went abandoned on October 27, 2007. A notice of abandonment was mailed on January 25, 2008.

With this petition, Petitioner has argued that extensions of time were still available, and has submitted a Request for Continued Examination along with the associated fee, an amendment, and a three-month extension of time so as to make timely this response.

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 holding of abandonment should be withdrawn.

The notice of abandonment was mailed prior to the expiration of the maximum extendable period for response.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on January 28, 2008 - can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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Alexandria, Virginia 22320

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DEC 0 6 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Makoto Takagi
Application No. 10/732315
Filed: December 11, 2003
Attorney Docket No. 117614

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 20, 2006, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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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 No. 10/732,345 :
Issued: December 11, 2003 : LETTER REGARDING PTA
Filed: December 11, 2003 :
Atty. Dkt. No.: 065064-0144 :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed July 10, 2006. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment under 35 USC 154(b) mailed May 18, 2006 indicated that the above-identified application was entitled to a patent term adjustment (PTA) of 294 days.

Applicants have not set forth with specificity the alleged error in adjustment. Nonetheless, the official record has been carefully reviewed and no error in the calculation has been determined.

Accordingly, the adjustment remains 294 days as of the time of allowance.

If applicants remain of the belief that the Office has accorded the instant application more days of adjustment than it is entitled, applicants should submit a letter requesting reconsideration of the adjustment setting forth with specificity the perceived error in calculation of adjustment.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, no fee is due in connection with this matter. The Office again thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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

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

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

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OFFICE OF PETITIONS

NOTICE

In re Application of :
Ian Frazer et al :
Application No. 10/732,345 :
Filed: December 11, 2003 :
Attorney Docket No. 065064-0144 :

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

Eric Dowling
Interlink 731
PO Box 025635
Miami, FL 33102-5635

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Eric Dowling	:	DECISION ON PETITION
Application No. 10/732,408	:	
Filed: December 11, 2003	:	
Attorney Docket No.	:	
EMD/Interchip-CIP1	:	

This is a decision on the "Petition: 37 CFR 1.137(b))" filed April 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the "Notice to File Corrected Application Papers" mailed March 17, 2004. This Notice set a period for reply of two (2) months from the mailing date of the Notice, with extensions of time under the provisions of 37 CFR 1.136(a) permitted. No reply having been received and no extension obtained, the above-identified application became abandoned on May 18, 2004. A courtesy Notice of Abandonment was mailed on December 8, 2004.

With the instant petition, petitioner paid the petition fee of $750 and filed substitute drawings in response to the notice.

Although petitioner asserted that the delay was, in part, unavoidable and in part unintentional, petitioner forwarded the unintentional fee. 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." The statements contained in the instant petition vary from the language required by 37 CFR 1.137(b)(3). The statements contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statements contained in the instant petition.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/15/09

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/732429 Patent No.: 7592306 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)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

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AUG 2 9 2005

OFFICE OF PETITIONS

In re Application of	:
Perkins et al.	:
Application No. 10/732,437	: DECISION GRANTING PETITION
Filed: December 9, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 006759.00027	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on December 9, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e) to the above-noted, prior-filed 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 applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3721 for appropriate action on the amendment submitted May 18, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional and PCT applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Andrew Perkins et al	:	
Application No. 10/732,437	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 006759.00027	:	

This is a decision on the petition under 37 CFR 1.313(c), filed December 16, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 16, 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 3721 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

---

[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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Date : December 19, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Andrew Perkins et al
Application No. : 10/732,437
Filed : December 9, 2003

The above-identified application has been assigned Patent No. 6,981,354 and an issue date of January 3, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 3, 2006:

"All reference to Patent No. 6,981,354 to Andrew Perkins et al of Berkeley, CA for APPARATUS FOR INFLATING AND SEALING AIR-FILLED PACKING CUSHIONS appearing in the Official Gazette of January 3, 2006 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

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OFFICE OF PETITIONS

In re Application of	:	
TAKENAKA, et al.	:	
Application No. 10/732,442	:	DECISION GRANTING PETITION
Filed: December 11, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **246586US6**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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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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FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Song Choi et al	:	
Application No. 10/732,452	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 0630-1887P	:	

This is a decision on the petition under 37 CFR 1.314, filed February 2, 2005, to defer issuance of the instant application into a patent.

The petition is granted.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one month only. *Note* MPEP 1306.01. However, if an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01.

It is noted that the requested deferral is for consideration of an Information Disclosure Statement stated to have been submitted on February 1, 2005. Unfortunately, however, Office records fail to disclose receipt of this IDS to date. Nevertheless, deferral of the issuance of the instant application will be deferred for one month from the mail date of this decision.

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

Frances Hicks

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

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OFFICE OF PETITIONS

In re Application of :
Hideyuki Nishida :
Application No. 10/732,483 :
Filed: December 11, 2003 :
Attorney Docket Number: 117498 : ON PETITION

This is a decision on the Petition under 37 CFR 1.181 to Reset Period of Reply to Office Action, filed August 9, 2005. The delay in treating the petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed November 30, 2004. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on March 1, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant's Assertion

Applicant files the instant petition and asserts that the November 30, 2004 Office action was never received. In support of this assertion, Applicant files a statement that the Notice was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and copies of his docket record where the non-received Notice would have been entered had it been received and docketed[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

[1] Applicant provides that a copy of the November 30, 2004 Office action was retrieved by Applicant from the Patent Application Information and Retrieval System ("PAIR") on August 1, 2005 and placed in Applicant's docket record on that date.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3748 for re-mailing of the Office action and re-setting the reply period.

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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19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Jack T. Nguyen, et al.	:	
Application No. 10/732,506	:	DECISION ON PETITION
Filed: December 9, 2003	:	TO WITHDRAW
Attorney Docket No. 6177-DIV	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 9, 2008.

The request is **APPROVED**.

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

The request was signed by Vic Y. Lin on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Jack T. Nguyen at the address indicated below.

The application became abandoned for failure to timely reply to the outstanding Office action mailed April 5, 2005.

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JACK T. NGUYEN
113 CALLE DE FELICIDAD
RANCHO SANTA MARGARITA, CA 92688

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MAIER & NEUSTADT, P.C.
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OFFICE OF PETITIONS

In re Application of :
Yada and Yamashita :
Application No.10/732,522 : DECISION GRANTING PETITION
Filed: December 11, 2003 :
Attorney Docket No. 246258US6CONT :

This is a decision on petition filed June 4, 2004 requesting that the above-identified application retain the presently accorded a filing date of December 11, 2003, with page 14 of the specification as part of the original disclosure.

On December 11, 2003, the above-identified application was filed. On June 4, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of December 11, 2003, however, page 14 of the specification appeared to have been omitted. The Notice also required an oath or declaration to be filed and a surcharge for the late filing of the same. Relative to the omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on August 4, 2004, applicants filed the instant petition along with a copy of the Office date-stamped postcard acknowledging receipt of 43 pages of the specification on December 11, 2003, and a copy of page 14 of the specification. Petitioner also filed a copy of the declaration that was originally filed on December 11, 2003.

Upon review of the record, page 14 specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited December 11, 2003, included page 14, which was subsequently misplaced by the Office. Therefore, the application, including page 14 of the specification, was complete on filing and entitled to the presently accorded filing date of December 11, 2003. The declaration was located among the original application papers filed on December 11, 2003.

Accordingly, the petition is granted; the Notice is vacated, accordingly.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of December 11, 2003, using the 43 pages of the specification filed December 11, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF CHARLES W. PETERSON, JR.
P.O. BOX 710627
OAK HILL VA 20171

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MAY 19 2004
OFFICE OF PETITIONS

In re Application of :
Horak et al. :
Application No. 10/732,579 : DECISION ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. YOR920030483US1 :

This is a decision on the petition filed April 2, 2004, requesting that the Notice to File Missing Parts of Nonprovisional Application be withdrawn.

On December 10, 2003, applicants filed the above-identified application. However, on March 16, 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 10, 2003, and indicating that the oath/declaration was unsigned and Figures 11A-E appeared to have been omitted.

In response, on April 2, 2004, applicants filed the present petition. Applicants asserted the following:

> The application transmittal, confirmation post card and Filing Receipt all indicate that the application as filed, included 17 pages of Formal Drawings. The drawings, as filed, are numbered 1, 2, 3A-B, 4A-D, 5A-B, 6A-F, 7A-C, 8A-D, 9A-B, 10, 11, 12A-E, and 13 on sheets 1-17. The written description clearly recites and describes the numbered drawings. The Brief Description of the Drawings, however, briefly describes Figures 1-10, as above, and 11A-E and 12, which correspond to 12A-E and 13. A brief description of Figure 11 was inadvertently omitted. A Preliminary Amendment is being submitted herewith correcting the Brief Description of the Drawings. Thus, while the Brief Description inadvertently describes Figures 11A-E and 12 instead of 11, 12A-E and 13, this does not

negate the fact that all of the Figures were included with the application as filed and, so, nothing was omitted from the application.

Petition dated April 2, 2004, pp. 1-2.

As applicants explained, the inconsistencies in the Brief Description were due to applicants' error. Therefore, Figures 11A-E appeared to be omitted on filing. Accordingly, the Notice to Filed Missing Parts mailed March 16, 2004, was correct in stating that Figures 11A-E described in the specification appeared to have been omitted. Therefore, the Notice of Missing Parts will not be withdrawn.

Accordingly, the petition is dismissed.

The Office of Initial Patent Examination will process the application with a filing date of December 10, 2003, using the drawing sheets containing Figures 1, 2, 3A-B, 4A-D, 5A-B, 6A-F, 7A-C, 8A-D, 9A-B, 10, 11, 12A-E, and 13 filed on that date, and indicating in the Office records that 17 sheets of drawings were present on filing.

Thereafter, the examiner will review the Preliminary Amendment submitted on April 4, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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LAW OFFICE OF CHARLES W. PETERSON, JR. Yorktown
11703 BOWMAN GREEN DRIVE
SUITE 100
RESTON VA 20190

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Horak et al.	:	DECISION ON PETITION TO
Application No. 10/732,580	:	WITHDRAW HOLDING OF
Filed: 12/10/2003	:	ABANDONMENT
Atty Docket No. YOR920030501US1	:	

This is a decision on the petition to withdraw the holding of abandonment filed on 30 April, 2007.

The petition is **GRANTED**.

On 1 March, 2007, a decision by the Board of Patent Appeals and Interferences was rendered, affirming the examiner's decision rejecting the appealed claims.

On 13 March, 2007, a Notice of Abandonment was mailed, stating that the application was abandoned because the period for seeking court review of the decision had expired and there are no allowed claims.

On 30 April, 2007, the present petition was filed, accompanied by an Request for Continued Examination (RCE) and an amendment as the submission under 37 CFR 1.114.

Petitioners assert, in the present petition, that the Notice of Abandonment was mailed in error, as the RCE and submission were timely filed in response to the board decision.

Upon review, petitioners' argument is well taken.

37 CFR 1.197(b) states:

(1) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:
(i) Where claims stand allowed in an application; or
(ii) Where the nature of the decision requires further action by the examiner.

(2) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 1.304) expires in the absence of further appeal or review. If an appeal to the U.S. Court of Appeals for the Federal Circuit or a civil action has been filed, proceedings on an application are considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

MPEP 1214.06 states, in pertinent part:

The time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a request for rehearing is timely filed before the Board, or as extended by the Director. See MPEP § 1216. When the time for seeking court review (plus 2 weeks to allow for information as to the filing of an appeal or civil action, if any, to reach the examiner) has passed without such review being sought, the examiner must take up the application for consideration. The situations which can arise will involve one or more of the following circumstances:

I. NO CLAIMS STAND ALLOWED

The proceedings in an application or *ex parte* reexamination proceeding are terminated as of the date of the expiration of the time for filing court action. The application is no longer considered as pending. It is to be stamped abandoned and sent to abandoned files.

> In an *ex parte* reexamination proceeding, a reexamination certificate should be issued under 37 CFR 1.570.
>
> (emphasis in original)

As such, applicant was entitled to a two (2) month time period after the date the board decision was mailed to file a response to the board decision.

Furthermore, 37 CFR 1.198 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown. Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application will be reopened and the amendment will be entered. See MPEP § 706.07(h), paragraph XI. Note that the RCE practice under 37 CFR 1.114 does not apply to utility or plant patent applications filed before June 8, 1995 or to design applications. See 37 CFR 1.114(d) and MPEP § 706.07(h), paragraph I.

As such, the showing of record is that the RCE and amendment under 37 CFR 1.114 filed on 30 April, 2007, were a timely and proper response to the board decision mailed on 1 March, 2007.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2818 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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P.O. BOX 710627
OAK HILL VA 20171

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OFFICE OF PETITIONS

In re Application of :
Furkay et al. :
Application No. 10/732,582 : DECISION ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. YOR920030482US1 :

This is a decision on the petition filed April 2, 2004, requesting that the Notice to File Missing Parts of Nonprovisional Application be withdrawn.

On December 10, 2003, applicants filed the above-identified application. However, on March 16, 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 10, 2003, and indicating that the oath/declaration was unsigned and Figures 11A-E appeared to have been omitted.

In response, on April 2, 2004, applicants filed the present petition. Applicants asserted the following:

> The application transmittal, confirmation post card and Filing Receipt all indicate that the application as filed, included 17 pages of Formal Drawings. The drawings, as filed, are numbered 1, 2, 3A-B, 4A-D, 5A-B, 6A-F, 7A-C, 8A-D, 9A-B, 10, 11, 12A-E, and 13 on sheets 1-17. The written description clearly recites and describes the numbered drawings. The Brief Description of the Drawings, however, briefly describes Figures 1-10, as above, and 11A-E and 12, which correspond to 12A-E and 13. A brief description of Figure 11 was inadvertently omitted. A Preliminary Amendment is being submitted herewith correcting the Brief Description of the Drawings. Thus, while the Brief Description inadvertently describes Figures 11A-E and 12 instead of 11, 12A-E and 13, this does not

negate the fact that all of the Figures were included with the application as filed and, so, nothing was omitted from the application.

Petition dated April 2, 2004, pp. 1-2.

As applicants explained, the inconsistencies in the Brief Description were due to applicants' error. Therefore, Figures 11A-E appeared to be omitted on filing. Accordingly, the Notice to Filed Missing Parts mailed March 16, 2004, was correct in stating that Figures 11A-E described in the specification appeared to have been omitted. Therefore, the Notice of Missing Parts will not be withdrawn.

Accordingly, the petition is dismissed.

The Office of Initial Patent Examination will process the application with a filing date of December 10, 2003, using the drawing sheets containing Figures 1, 2, 3A-B, 4A-D, 5A-B, 6A-F, 7A-C, 8A-D, 9A-B, 10, 11, 12A-E, and 13 filed on that date, and indicating in the Office records that 17 sheets of drawings were present on filing.

Thereafter, the examiner will review the Preliminary Amendment submitted on April 4, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Johannes M. Van Noort, et. al.	:	
Application No. 10/732,586	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 101137-53	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 22, 2007, to revive the above-identified application. The delay in responding is regretted.

The above application became abandoned for failure to file a reply to the final Office action mailed December 20, 2006.

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

This application is being revived for consideration of the RCE filed on June 22, 2007.

The Office acknowledges receipt of $1,020 for a three months extension of time filed on June 22, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Since the $1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being retained in the Office of Petitions for consideration of the Petition to Accept Late Claim for Priority filed on June 22, 2007.

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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P.O. Box 1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of

ZUCHERMAN, James F. et al.
Application No. 10/732,589
Filed: December 10, 2003
Attorney Docket No. **19433A-000155US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 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 Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 09, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JAMES F. ZUCHERMAN**
3035 PIERCE STREET
SAN FRANCISCO, CA 94123

cc: **JOHN R. OWEN**
COATS & BENNETT, P.L.L.C.
1400 CRESCENT GREEN
SUITE 300
CARY, NORTH CAROLINA 27511

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CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO, IL 60606

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In re Patent of Machida	:	DECISION ON REQUEST
Patent No. 7,573,445	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/732,602	:	AND NOTICE OF INTENT TO
Filing Date: December 10, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 0553-0385	:	CORRECTION

This is a decision on the petition filed on October 9, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred eighty-nine (589) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred eighty-nine (589) 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 period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"), the over three year period began on December 11, 2006, and ended on May 2, 2007, *the day before* the RCE was filed, and is 143 days (not 144 days). See 35 U.S.C. § 154(b)(1)(B)(i). As a result, the patent term adjustment is 588 days, not 589 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 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 **five hundred eighty-eight (588)** days.

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

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 NO.	:	7,573,445 B2
ISSUE DATE	:	August 11, 2009
INVENTOR(S)	:	Machida

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 445 days.

Delete the phrase "by 445 days" and insert - by 588 days--

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INTERNATIONAL BUSINESS MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Susann M. Keohane, et al.	:	
Application No. 10/732,625	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No.: AUS920030453US1	:	

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

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed January 13, 2006. A Notice of Abandonment was mailed on August 30, 2006. In response, on November 14, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2186 for consideration of the amendment filed November 14, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ONE JOHN DEERE PLACE
MOLINE IL 61265

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OFFICE OF PETITIONS

In re Application of	:	
Hunt et al.	:	
Application No. 10/732,634	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 16681-US	:	

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

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

In re Application of	:	
Schuler, et al.	:	DECISION
Application No.: 10/732,643	:	
Filing Date: 10 December, 2003	:	
Attorney Docket No. 920670-95239	:	

This is a decision on the paper viewed as a petition filed on 7 May, 2007, to withdraw the holding of abandonment, improvidently pleaded under 37 C.F.R. §1.183 and properly considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

Contrary to Petitioner's averment, there is no evidence of record that Petitioner herein was ever empowered to prosecute the instant application. The papers previously filed (10 March, 2005, and 2 February, 2006, resubmitted on 7 May, 2007) by Petitioner never complied with Office requirements in this regard. Petitioner is referred to the guidance set forth in the Commentary in the Manual of Patent Examining Procedure (MPEP) §402.05 and §402.07 for a discussion of the proper manner in which to undertake this effort and the requirements therefor.

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this

[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.

decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 12 October, 2006, with reply due absent an extension of time on or before 12 January, 2007;
- the application went abandoned by operation of law after midnight on 12 January, 2007;
- the Office mailed the Notice of Abandonment on 17 April, 2007;

---

[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

- on 7 May, 2007, Petitioner filed the instant petition, and averred therein, *inter alia*, non-receipt of the Office action in question, however, what is clear from the record is that Petitioner sought to become Counsel of Record herein as long ago as 10 March, 2005, but apparently on each occasion failed to comply with the requirements of a proper revocation/power of attorney (see: the guidance set forth in the Commentary at the Manual of Patent Examining Procedure (MPEP) §402.05 §402.07) in that Petitioner simply sought to change the correspondence address, but because Petitioner was not powered to act upon the filing of the instant application, the change of address could not be and was not entered, and Petitioner failed to file a Revocation/Power of Attorney and the Certificate Pursuant to 37 C.F.R. §3.71 and §3.73(b).

Thus, while Petitioner may not have received the Office action in question, the reason for that non-receipt was Petitioner's failure to file properly and timely the papers required in association with a revocation/power of attorney (discussed above)–not Office error.

Moreover, Petitioner did not comply with the timeliness requirements evidencing diligence as set forth in the regulation–i.e., to seek relief in this matter timely and properly within two months of the act complained of (Notice of Abandonment).

The Rules of Practice provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules are not complied with/followed.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) can inform an applicant/practitioner as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

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signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action.

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

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

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

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

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> <u>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</u> rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied and cannot satisfy the showing and timeliness requirement requirements herein.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[11]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

---

[11] See fee schedule: http://www.uspto.gov/main/howtofees.htm

[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.

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[14]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Encl.
12 October, 2006, Final Office action

cc:
RALPH C. FRANCIS
FRANCIS LAW GROUP
1942 EMBARCADERO
OAKLAND, CA 94606

[14] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,643	12/10/2003	Eleanor L. Schuler	920670-95239	5897

23644 7590 10/12/2006
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

EXAMINER
DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 10/12/2006

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

Office Action Summary	Application No.	Applicant(s)
	10/732,643	SCHULER ET AL.
	Examiner	Art Unit
	Jerome W. Donnelly	3764

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _____ is/are pending in the application. 1-5, 8-10 and 12

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _____ is/are allowed. 12 is

6)☒ Claim(s) _____ is/are rejected. 1, 2, 4, 5 and 8-10

7)☒ Claim(s) _____ is/are objected to. 3 is

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 12 is allowed.

Claims 1, 2, 8, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Wanderlick.

Wanderlick discloses a device comprising a power source, a vibration member (14), vibration inducing apparatus (24, 22) a vibration control module see Fig. 2 and a display in communication with said control module for displaying visual indication of a rate of vibration.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers in view of Wanderlick.

Meyers discloses a device having handles, a power source, a vibration member (13) a vibration inducing apparatus (11) a control module (15), and a housing (5). To include a display would have been obvious in view of the display of Wanderlick. Display means a known to be used no vibrators, for the purpose of providing feed back to user's.

Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wanderlick in view of Wollman.

The examiner notes that it is known and that it would have been obvious to one of ordinary skill in the art to provide a second display, to provide a visual indication of power activation in view of Wollman element 110 LED lights may be used to indicate various modies of operation of hand held devices.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the overall device of Lee.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

JEROME DONNELLY
PRIMARY EXAMINER

Jerome Donnelly

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RALPH C. FRANCIS
FRANCIS LAW GROUP
1942 EMBARCADERO
OAKLAND CA 94606

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AUG 2 6 2008

In re Application of	:	
Schuler, et al.	:	
Application No.: 10/732,643	:	DECISION
Filing Date: 10 December, 2003	:	
Attorney Docket No. 920670-95239	:	

This is a decision on the petition filed on 15 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **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.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has not satisfied the requirements of the regulation (proper reply: request for continued examination (RCE) and fee, and submission under 37 C.F.R. §1.114), as set forth below.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the final Office action mailed on 12 October, 2006, with reply due absent an extension of time on or before 12 January, 2007.

The application went abandoned by operation of law after midnight on 12 January, 2007.

The Office mailed the Notice of Abandonment on 17 April, 2007.

On 7 May, 2007, Petitioner filed the original petition, and averred therein, *inter alia*, non-receipt of the Office action in question, however, what is clear from the record is that Petitioner sought to become Counsel of Record herein as long ago as 10 March, 2005, but apparently on each occasion failed to comply with the requirements of a proper revocation/power of attorney (see: the guidance set forth in the Commentary at the Manual of Patent Examining Procedure (MPEP) §402.05 §402.07) in that Petitioner simply sought to change the correspondence address, but because Petitioner was not powered to act upon the filing of the instant application, the change of address could not be and was not entered, and Petitioner failed to file a Revocation/Power of Attorney and the Certificate Pursuant to 37 C.F.R. §3.71 and §3.73(b). Thus, while Petitioner may not have received the Office action in question, the reason for that non-receipt was Petitioner's failure to file properly and timely the papers required in association with a revocation/power of attorney (discussed above)–not Office error. Moreover, Petitioner did not comply with the timeliness requirements evidencing diligence as set forth in the regulation–i.e., to seek relief in this matter timely and properly within two months of the act complained of (Notice of Abandonment)—and the petition was dismissed on 24 September, 2007

On 15 October, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an after-final amendment (which Petitioner, as one registered to practice before the Office is aware is not of right and was not a proper reply[1] and which the Examiner has indicated will not be entered), and made the statement of unintentional delay.

Thus, Petitioner has failed to file a proper reply: i.e., a request for continued examination (RCE) and fee, and submission under 37 C.F.R. §1.114.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus,

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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.**

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[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 430/2
EAST HANOVER, NJ 07936-1080

COPY MAILED

AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Qiu et al :
Application No. 10/732,648 : DECISION ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. CL/V-32816A :

This is a decision on the "PETITION TO ACCORD A FILING DATE TO THE ABOVE-IDENTIFIED APPLICATION," filed May 13, 2004, requesting that the above-identified application be accorded a filing date of December 10, 2003.

Application papers in the above-identified application were filed by way of deposit in the Express Mail service of the United States Postal Service on December 10, 2003. However, on March 17, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without a complete specification as required by 35 U.S.C. 112.[1] In addition, the Notice stated that the oath or declaration is missing. (It is noted that no oath or declaration is required to accord an application a filing date. See § 1.53(f).)

In reply, applicants timely filed the instant petition. Applicants maintain that the application was filed on December 10, 2003 with a complete specification (49 pages, including claims and abstract) and an unexecuted declaration. In support thereof, applicants submit a copy of their Utility Application Transmittal and a copy of their return postcard receipt, itemizing "☒Specification 49 Pg's" and "Unexecuted Decl." (circled) among the enclosures, bearing a USPTO date-stamp of December 10, 2003 with application No. assignment of 10/732648, and lacking any notation of non-receipt of any item listed. Included with the petition are a copy of the forty-nine (49) pages of specification, as petitioner maintains they were filed on December 10, 2003; and an executed declaration.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date

[1] See 35 U.S.C. 111(a)(4).

stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on December 10, 2003 included the papers identified on the postcard as "☒Specification 49 Pg's." and "Unexecuted Decl."

Further, a review of those pages confirms that they include a specification, at least one claim and an abstract. There is no reference to drawings in the specification, and the specification includes at least one method claim. Thus, it is concluded that the application is entitled to a filing date of December 10, 2003.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-2965, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is being forwarded to OIPE for:

- correction of the filing date to December 10, 2003, using the application papers received in the Office on that date, and the 49 pages of specification re-supplied on petition filed May 13, 2004; and
- processing of the executed declaration filed May 13, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

US CORPORATIONS, INC.
630 NEPTUNE AVE.
ENCINITAS, CA 92024

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of
William Halter, III
Application No. 10/732,659
Filed: December 10, 2003
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 5, 2005, to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to reply to the non-final Office action mailed November 1, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on February 2, 2004. The Notice of Abandonment was mailed on May 11, 2005.

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).

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

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

The 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 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]

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[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.

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). Petitioner maintains that petitioner was unaware of the non-final Office action and intimates that the correspondence address on record on the date the non-final Office action was mailed was incorrect.

Petitioner's argument is not persuasive as petitioner's failure to note that the non-final Office action is of little consequence if, as in this case, the non-final Office action is properly mailed to the correspondence address of record. The only exception to this is if it is alleged that the Office communication, despite being mailed to a correct correspondence address of record, was not received. In this case, however, petitioner implicitly indicates that the correspondence address of record on the date the Office action was mailed was not correct. Applicants are required to provide the Office with prompt notification of a change of address. See MPEP 601.03. If, as in this case, an Office communication is mailed before applicant notifies the Office of a change in the correspondence address, any resulting abandonment of the application that occurs because applicant does not receive the previously mailed Office communication does not constitute unavoidable delay. Further to this point, Section 711.03 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> . . . where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the the applicant n a sufficient time to permit a timely reply) an adequate showing of unavoidable delay will require a showing that due care was taken to adhere to the requirement of prompt notification in each concerned application of the change of correspondence address, and must include an adequate showing that a timely notification of the change of correspondence address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change of correspondence address . . . the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change of correspondence address.

Based on the aforementioned, the petition is dismissed.

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[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 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.

Petitioner has also failed to requirements of item (3) above because a successful petition under 37 CFR 1.137(a) requires that petitioner establish 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 1.17(a)--was unavoidable. Petitioner did not account for the twenty-two month delay in filing the instant petition—the relevant period being from the due date for the reply of February 1, 2005, until the filing of the instant petition. The petition under 37 CFR 1.137(a) will not be considered grantable until the entire period of delay is determined to be unavoidable.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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4590 MacARTHUR BOULEVARD
SUITE 500
NEWPORT BEACH, CA 92660

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Gregory G. Johnson	:	
Application No. 10/732,664	:	DECISION GRANTING PETITION
Filed: December 9, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 811-P-7-USA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 7, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed April 7, 2005. Accordingly, the date of abandonment of this application is July 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the issue fee of $700; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Petitioner is advised that, while 10 advanced copies of the patent were requested, the $30 fee therefor was not received.

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

The application is being referred to Publishing Division for processing into a patent.

Frances Hicks
Petitions Examiner
Office of Petitions

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DRUMMOND & DUCKWORTH
4590 MacARTHUR BOULEVARD
SUITE 500
NEWPORT BEACH, CA 92660

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APR 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Gregory G. Johnson	:	
Application No. 10/732,664	:	DECISION GRANTING PETITION
Filed: December 9, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 811-P-7-USA	:	

This is a decision on the petition, filed March 17, 2006, which is being treated as a petition under 37 CFR 1.137(b) to 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). For the reason stated below, the decision on petition mailed March 10, 2006 is vacated.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 17, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country. Accordingly, this application became abandoned by operation of law at midnight January 3, 2005 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. Therefore, as this application was abandoned prior to the mailing on April 7, 2005, of the Notice of Allowance and Fee(s) Due, only one petition and fee are necessary to revive this application. In view thereof, the sole treatment of the decision on the petition to accept the unintentionally delayed payment of the issue fee mailed March 10, 2005 is vacated in favor of this decision.

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. Further, the delayed payment of the issue fee is also accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 20, 2006, has been mailed under separate cover.

In view of the rescinding of the nonpublication request, a $300 publication fee is now due. Therefore, $300 of the $750 petition fee paid will be applied towards the publication fee.[1] Since the issue fee has been paid, this application may issue prior to the scheduled publication date. If publication of the application does not occur, applicant may file a request for a refund after the patent issues. *See* 37 CFR 1.211(e).

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

This application is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] The $450 balance will be refunded by U.S. Treasury check in due course.

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td

Mailed: 2-2-06

In re application of	:	
Zhou	:	DECISION ON
Serial No. 10/732,667	:	PETITION
Filed: December 10, 2003		:

For: MICROWAVEABLE LATENT POLYMER COMPOSITES WITH ROUGH SURFACE TEXTURE

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 14, 2005.

On March 11, 2005, a first office action was mailed to applicant, containing various grounds of rejection. Included in these rejections was a rejection of claims 1-14 under non statutory double patenting grounds. Applicant responded to this office action with a response filed on April 21, 2005. The examiner withdrew claims 1-14, requested the cancellation of said claims, and maintained rejections over claims 15-20 in a final rejection mailed July 14, 2005. Applicant argued against the withdrawal of claims 1-14 in a response filed September 1, 2005. The examiner refused to reconsider in an advisory action mailed September 14, 2005.

On December 22, 2005, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the July 14, 2005 office action.

Petitioner's position for the withdrawal of the finality is that the examiner should not have withdrawn claims 1-14 from consideration and that said claims should be fully treated on the merits.

DECISION

Section 706.07 of the MPEP states:

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of

reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

Petitioner argues that the examiner improperly withdrew claims 1-14 from consideration. It is noted that these claims were originally examined and treated on the merits in the first office action where they were rejected under statutory double patenting grounds. In the final office action, the examiner recognizes that claims 1-14 were subject to a restriction requirement in the parent application and withdrew the rejection. He also withdrew the claims from consideration. He then requested that applicant cancel these claims. It is incomprehensible as to why the examiner took these actions. No restriction requirement was ever made in the instant application which would warrant the withdrawal of any claims. Accordingly, it is unclear as to why the examiner would make a request to applicant to cancel the aforementioned claims.

It is also unclear as to how the examiner could continue to take the position he took after being presented with arguments by applicant as to the propriety of his actions. The statement in the advisory action that "the examiner has studied applicant's remarks as relating to claims 1-14, but believes the foregoing position by the examiner is proper as same claimed was previously subjected to a restriction requirements," does not make any sense in that the claims were never subject to any restriction requirement in the instant application. The restriction requirement does not carry over to the child application from the parent application.

Due to the aforementioned improper actions taken by the examiner in the instant prosecution, it is clear that no clear issue has been developed between the examiner and applicant. Accordingly, the finality of the July 14, 2005 office action was both improper and incomplete. The instant petition is **GRANTED.**

It is noted that applicant has filed a notice of appeal to maintain pendency of the application. The application is being forwarded to the examiner who is directed to prepare a new non-final office action examining and treating all of the claims on the merits. Claims 1-14 should be rejoined and also treated on the merits. No restriction requirements should be made.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Pauley Petersen & Erickson
Suite 365
2800 W. Higgins Road
Hoffman Estates IL 60195

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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BRACEWELL & PATTERSON, L.L.P.
Intellectual Property Law
P.O. Box 61389
Houston TX 77208-1389

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of
D. Kay Shillings
Application No. 10/732,688
Filed: December 10, 2003
Attorney Docket No.076157.000002-CIP

DECISION ON PETITION

This is a decision on the petition filed April 5, 2004, which is being treated as a petition requesting that a "Notice of Omitted Item(s)" (Notice) mailed on March 17, 2004, be withdrawn.

The application was filed on December 10, 2003. However, on March 17, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of December 10, 2003, but informing applicant that the drawings of Figure 2 as described in the specification appeared to have been omitted.

In response, on April 5, 2004, applicant filed the present petition, a copy of one (1) sheet of drawings containing Figures 2, 3 and 4, and the $130.00 petition fee. The petition alleges that Figure 2 was filed on December 10, 2003. In support, the petition is accompanied by a copy of applicant's postcard receipt, which acknowledges receipt in the United States Patent and Trademark Office (Office) of three (3) sheets of drawings on December 10, 2003.

Upon review of the record, it appears that one (1) sheet of drawings indicated as page 2/3 contains an Office stamp stating Best Available Copy. Upon inspection of the one (1) sheet of drawing, the images of Figures 2, 3, and 4 were not properly captured upon scanning. After reviewing the drawings submitted on filing, it appears that applicant filed complete images of Figure 2, 3, and 4 on filing, which were not scanned in their entirety.

In view of the above, the petition is granted.

The Notice mailed on March 17, 2004, was sent in error and is hereby vacated.

The Office realizes the error and directs the Office of Initial Patent Examination to accord the application a filing date of December 10, 2003, using the copy of Figures 2, 3, and 4 submitted with the petition on April 5, 2004.

The $130.00 petition fee is unnecessary, and therefore, will be refunded by treasury check.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 21 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Zhang et al.	:	
Application No.: 10/732701	:	DECISION ON
Filing or 371(c) Date: 12/10/2003	:	PETITION
Title of Invention:	:	
NOVEL HETEROARYL PEPTIDOMIMETICS AS	:	
THROMBIN RECEPTOR ANTAGONISTS	:	

This is a decision in response to the correspondence entitled "Information for Withdrawal of Abandonment—PTO has no Evidence that Faxed Correspondence was Received," filed June 7, 2006. The correspondence is properly treated as a petition under 37 CFR 1.181.

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 June 22, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on September 23, 2005. A Notice of Abandonment was mailed May 30, 2006.

Applicant files the present petition and asserts that a timely reply to the Notice, to wit: Part B of the Issue Fee Transmittal Form, was filed via facsimile on September 16, 2005. In support of this assertion, Applicant provides a copy of the reply, which includes a Certificate of Mailing dated September 16, 2005; a copy of the Auto-Reply Facsimile Transmission from this Office acknowledging receipt by this Office of one page – the Issue Fee Transmittal Form – on September 16, 2005, and a copy of the sending unit's Transmission Report noting that one page was successfully transmitted via facsimile to 703-746-4600[1] on September 16, 2006.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission was, in September 2006, and is currently addressed in 37 CFR 1.8(b), reproduced below:

[1] The MPEP 502.10 in effect on September 16, 2005 provided as follows: "Payment of an issue fee and any required publication fee by authorization to charge a deposit account or credit card, and drawings: (703) 746-4000 facsimile number."

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice is hereby withdrawn.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on September 16, 2005.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Han-Cheng Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7629319	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/732,701	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **929** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BAUSCH & LOMB INCORPORATED
ONE BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2701

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald Charles Grove	:	
Application No. 10/732,704	:	DECISION ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. P03418	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 14, 2007, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181, in light of petitioner's request to withdraw the Notice of Abandonment and refund the petition fee.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed August 9, 2007. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on November 10, 2007. The Office mailed a Notice of Abandonment on December 5, 2007.

On petition, applicant asserts that he filed an Issue Fee Transmittal, form PTOL-85b, on November 8, 2007. In support thereof, applicant has included *prima facie* evidence of its timely filing by submitting a copy of an Auto Reply Facsimile Transmission Receipt. See MPEP 503. Further, a review of Office records indicates there was a sufficient balance in petitioner's deposit account to charge the issue and publication fees on that date.

In view thereof, **the holding of abandonment is withdrawn**.

Given the basis for granting this petition, no petition fee has been charged.

However, as petitioner did not present any evidence that the issue and publication fees were ever charged to his deposit account, the $1440 issue fee and $300 publication fee have been charged to Deposit Account No. 02-1425, as authorized in the PTOL-85b filed November 8, 2007.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PASTEL LAW FIRM
CHRISTOPHER R. PASTEL
8 PERRY LANE
ITHACA NY 14850-9267

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JAN 16 2009

OFFICE OF PETITIONS

In re Application of

Johnson, et al. :

Application No. 10/732,717

: DECISION ON PETITION

Filed: December 10, 2003

:

Attorney Docket No. 2003-2

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 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 April 27, 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 July 28, 2006. A Notice of Abandonment was mailed on December 13, 2006.

The amendment filed November 5, 2007, is noted.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES IA 50309-2350

MAILED

NOV 15 2006

Director's Office
Group 3700

In re Application of:
Ball, William T.
Serial No. 10/732726
Filed: December 10, 2003
Docket: 2017

Title: METHOD AND APPARATUS FOR ASSEMBLING AND SEALING BATHTUB OVERFLOW AND WASTE WATER PORTS

DECISION ON PETITIONS
UNDER 37 C.F.R. § 1.181

This is a decision on the two petitions filed on December 29, 2005 under 37 C.F.R. § 1.181. One petition requests that the Director of the Technology Center overturn the Examiner's decision to disapprove and not enter a drawing correction as containing new mater and requests the drawing amendment to be entered. The second petition requests the Technology Center Director to withdraw the Examiner's drawing objection that the drawings do not show every feature of the claims.

The petitions are granted-in-part and dismissed-in-part.

In the non-final Office acting mailed May 23, 2005, the Examiner objected to the drawings under 37 CFR §1.83(a) for not showing every feature claimed. In particular, the Examiner objected to the drawings for not showing the "placing", "charging" and "purging" steps set forth in claim 1, and "means for placing", "means for charging", "means for purging" and "means for opening" set forth in claim 9. Applicant responded by submitting two new figure, Figs 7 and 8, with his response filed on August 26, 2005. The Examiner's final rejection mailed October 24, 2005 states that Fig 8 is disapproved for containing new matter with respect to "sealing" and "opening". The Examiner asserts that the description of the "sealing" and "opening" steps associated with the drain port 28 is not found in the originally filed disclosure. The Examiner further asserts in the final rejection that the "proposed Fig. 8 would not obviate the outstanding Rule 83(a) drawing objection even if the drawing correction was otherwise acceptable. Merely placing the recited "-ing" words in boxes does not define what is involved when performing the claimed acts."

A review of the record indicates that applicant amended claim 1 in the response filed August 26, 2005 to change "placing a thin diaphragm over the overflow port and the waste water port" to "sealing a thin diaphragm over the overflow port and the waste water port". Box 110 of new Fig 8 reflects the change to claim 1. It is noteworthy that applicant is referring to two different sealing elements in the original description, membrane 26A is associated with the waste water port (see page 7, line 16 of the original specification) and diaphragm 80 is associated with the overflow port (see page 6, line 15 of the original specification). While this may not be evident in reading original or amended claim 1, per se, or Fig 8, per se, it becomes clear in reviewing the specification. It is further noteworthy that applicant defines the sealing as *over* the respective ports and not *in* or *on*. To the extent set forth, there appears to be no new matter in the claims or drawing with respect to "sealing".

The Examiner's position regarding new matter with respect to cutting of the membrane 26A is well taken. The original specification merely refers to the removal of the membrane on page 8, line 2. There is no indication that an opening is cut through the opening. It appears from the specification that the whole membrane is removed and not even opened or cut. In this regard, Box 116 of Fig 8 contains new matter with respect to the cutting and opening of the membrane. Correspondingly, the insert to the specification in the response filed August 26, 2005 contains new matter. See the insert to page 9, line 25, last sentence of the first paragraph, repeated herein for the convenience of the reader: "The final step is wherein the diaphragms 26A, 80 are opened by physically cutting them open to permit fluid flow as shown in box 118 [sic, 116]." The statement is true for 80 but not 26A with respect to original support. Therefore, objectionable new matter under 35 USC §132 is present not only in new Fig 8, but in the amended specification.

Petitioner's request seeking relief of the Examiner's objections to employing a flow chart to show the method steps is granted. Flow charts are employable for the purpose intended by applicant. However, they may not contain new matter as noted above with respect to Box 116. (Please note that in Box 116, there is a spelling error with respect to "opend" that requires correction along with eliminating any new matter.)

In summary, the petitions are granted with respect to the use of "sealing" and use of a flow chart but dismissed with respect to "opening" and "cutting" for both diaphragms together since these terms are not applicable to membrane 26A.

GRANTED-IN-PART; DISMISSED-IN-PART.

It is noted that petitioner paid $130.00 for each petition. There is no fee for a petition under 37 CFR §1.181. Both fees are refundable upon written request. See 37 CFR 1.26 and MPEP 607.02.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 1 0 2007

OFFICE OF PETITIONS

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

In re Application of
Peter S. ELLIS
Application No. 10/732,738
Filed: December 10, 2003
Attorney Docket No. 12116/3

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 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 John Nethery on behalf of all attorneys/agents of record associated with Customer Number 00757.

All attorneys/agents of record associated with Customer Number 00757 have been withdrawn.

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

All future communications from the Office will be directed to the inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 15, 2007, that requires a response by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: PETER S. ELLIS
1363 N. MOHAWK STREET
CHICAGO, IL 60610

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
10/732,738	12/10/2003	Peter S. Ellis	12116/3

CONFIRMATION NO. 6674

OC000000026151825

757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 10/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2007.

- 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ERIC D. JORGENSON
AMIN & TUROCY LLP
NATIONAL CITY CENTER
1900 E. 9TH STREET, 24TH FLOOR
CLEVELAND, OH 44114

COPY MAILED

MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael T. McKibben et al	:	
Application No. 10/732,744	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. LEADP102USA	:	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 3, 2005.

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

A review of the file record indicates that the Revocation of Power of Attorney with New Power of Attorney and change of Correspondence Address to Eric D. Jorgenson and others 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.

There is an outstanding Office action mailed January 5, 2006 that requires a reply from the applicant.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Eric D. Jorgenson
1457 King Road
Hinckley, OH 44233

cc: Michael T. McKibben
Leader Technologies
921 Eastwind Drive, Suite 118
Westerville, OH 43081

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/732,744	12/10/2003	Michael T. McKibben	LEADP102USA

CONFIRMATION NO. 6665

OC000000018685990

OC000000018685990

57608
ERIC D. JORGENSON
1457 KING ROAD
HINCKLEY, OH 44233

Date Mailed: 05/04/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2005.

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.

IRVIN DINGLE
OP (571) 272-3210

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/732,744	12/10/2003	Michael T. McKibben	LEADP102USA

CONFIRMATION NO. 6665

OC000000018685966

OC000000018685966

Amin & Turocy, LLP
National City Center
24th Floor
1900 E. 9th Street
Cleveland, OH 44114

Date Mailed: 05/04/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2005.

- 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).

IRVIN DINGLE
OP (571) 272-3210

NEW ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

ERIC D. JORGENSON
1457 KING ROAD
HINCKLEY, OH 44233

In re Application of	:	
MCKIBBEN, Michael T. et al.	:	
Application No. 10/732,744	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. **LEADP102USA**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 23, 2010.

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

A review of the file record indicates that a change of address was submitted on February 24, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **LEADER TECHNOLOGIES, INC.**
STE. 118
921 EASTWIND DRIVE
WESTERVILLE OH 43081

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-16-08

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/732,763 Patent No.: 7283920

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

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

Please Check Drawings

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Correction to Claim 12, column 29, line "27" should be to line 58. Drawing Figures Accepted in the 2/20/2007 Office Action

SPE 2863

2863
Art Unit

OIPE IAP1
NOV 08 2007
PATENT & TRADEMARK OFFICE

10/732763 11-09-07

Cofc

Docket No.: 02008/135001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Masaru Doi et al.

Patent No.: 7,283,920

Issued: October 16, 2007

For: APPARATUS AND METHOD FOR TESTING SEMICONDUCTOR DEVICE

Certificate
NOV 14 2007
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

In the Drawings:

In the drawings, sheet 24 of 28, figure number 25 is incorrect. Please replace the drawing with the replacement drawing enclosed.

In the Claims:

In Claim 12, column 29, line 27, the word "An" should be deleted.

In Claim 21, column 31, line 4, the word "An" should be deleted.

In Claim 35, column 33, line 55, the word "whereiii" should be --**wherein**--.

NOV 14 2007

In Claim 38, column 34, line 10, the word "riot" should be --**not**--.

In Claim 38, column 34, line 11, the word "astrobe" should be --**a strobe**--.

The errors were not in the application as filed by applicant; accordingly no fee is required.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Also enclosed, as evidence of the error, is a copy of Fig. 25 as issued; a copy of the Replacement Sheet for Fig. 25 filed on December 5, 2006; a copy of the claims as issued; and pages 2-15 of the Amendments to the Claims. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 50-0591, under Order No. 02008/135001.

Dated: November 8, 2007

Respectfully submitted,

By _____

Thomas K. Scherer
Registration No.: 45,079
OSHA · LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)

NOV 14 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Jun-07

BAKER & MCKENZIE LLP
PENNZOIL PLACE, SOUTH TOWER
711 LOUISIANA, SUITE 3400
HOUSTON TX 77002-2716

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of Gaskins, Ford, Moore-Smith, O'Leary, Wilson, and Wolfenbarger Application No. 10/732799 Filed: 12/11/2003 Attorney Docket No. 105916.167US1	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a) filed on 17 August, 2004.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

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 11 December, 2003, without an executed oath or declaration. Accordingly, on 17 March, 2004, the Office of Initial Patent Examination (OIPE) 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, and additional claim fees. A two (2) month period for reply was set.
In response, on 17 August, 2004, a petition under 37 CFR 1.47(a), petition fee, surcharge, the basic filing fee and additional claim fee(s), and a three (3) month extension of time and fee were filed. A declaration naming Barton D. Gaskins, Louis Ford, Debra Moore-Smith, Robert K. O'Leary, Anne Wilson, and Lloyd Wolfinbarger, Jr., as joint inventors, signed by all inventors except non-signing inventor Moore-Smith, was also filed.

Petitioners assert that joint inventor Moore-Smith cannot be located after diligent effort. Petitioners aver that a copy of the declaration and assignment was mailed to the non-signing inventor's last known address, but that the envelope containing the declaration and assignment was returned as undeliverable.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not shown that diligent efforts have been made to locate the non-signing inventor.[1] Specifically, the showing of record is that a single mailing was made to the non-signing inventor's last known address, but that no further efforts were made to locate the non-signing inventor after the letter was returned as undeliverable.

---

[1] MPEP 409.03(d).

While petitioners have shown, via the declaration of registered patent attorney Belinda M. Lew, Ph.D., that a copy of the application was sent to the non-signing inventor and was returned as undeliverable, petitioners have not provided corroborating evidence of diligent efforts to locate the non-signing inventors. In this regard, it is noted that a brief Internet search reveals that the non-signing inventor may now be living in Durham, NC. Petitioners should provide details, in a renewed petition, of the efforts made to locate the non-signing inventor. Statements should be provided by persons with first-hand knowledge of the details.

If a new address is located for the non-signing inventor, a copy of the application (specification, including the claims, drawings, if any, and the declaration) should be sent to the non-signing inventor's address with a request that the inventor sign and return the declaration. If the non-signing inventor refuses to sign the declaration, petitioners should provide proof of that refusal. Statements should be provided by persons with first-hand knowledge of the details. If the non-signing inventor refuses in writing, a copy of the written refusal should be provided.

If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail are unsuccessful, petitioners will have established that despite diligent efforts, the non-signing inventor could not be reached.

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

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 related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW
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
www.uspto.gov
DIW Jan-08

BAKER & MCKENZIE LLP
PENNZOIL PLACE, SOUTH TOWER
711 LOUISIANA, SUITE 3400
HOUSTON TX 77002-2716

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:
Gaskins et al.	: DECISION NOTING JOINDER OF
Application Number: 10/732799	: INVENTOR AND PETITION
Filing Date: 12/11/2003	: UNDER 37 CFR 1.47(a) MOOT
Attorney Docket Number:	:
105916.167US1	:

Papers filed on December 21, 2007, in response to the decision dismissing petition mailed on June 27, 2007, included a Declaration signed by the previously non-signing inventor, Debra Moore-Smith, in compliance with 37 CFR 1.63.

The petition is **dismissed as moot**.

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

As a four (4) month extension of time was required to make this response a timely reply to the decision mailed on June 27, 2007, a four (4) month extension of time will be charged to counsel's deposit account, as authorized in the papers filed on December 21, 2007.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application will be referred to Technology Center Art Unit 1797 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, NW
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
www.uspto.gov

ELAN DRUG DELIVERY, INC.
C/O FOLEY & LARDNER
3000 K STREET, N.W.
SUITE 500
WASHINGTON DC 20007-5109

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SEP 17 2008

In re Patent No. 6,976,647	:	
Issue Date: December 20, 2005	:	
Application No. 10/732,801	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket Number: 029318-0998	:	

This is a decision on the petition, filed August 20, 2008, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about December 20, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that the Letters Patent was received from the USPTO and was subsequently lost. The petition fee in the amount of $400.00 has been applied.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer (Fax – (571) 270-9753)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 15,2007

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/732,834 Patent No.: 7281341 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.

XApproved All changes apply.

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

☐ Denied State the reasons for denial below.

Comments: _____

Drawings approved.

/Mickey Yu/ 3728

SPE Art Unit

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

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Cleveland, Andrew J. :
Application No. 10/732,837 :
Filed: December 11, 2003 :
Attorney Docket No. 7273-70195-01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 25, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement signed by the applicant, as well as a copy of his driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 2836 for action on the merits commensurate with this decision.

Denise Pothier for
David Bucci
Petitions Examiner
Office of Petitions

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of	:	
John G. Gribben, et al.	:	
Application No.: 10/732,847	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No.: WYS-020.02	:	

This is a decision on the petitions, filed February 20, 2009, to (1) withdraw the above-identified application from issue under the provisions of 37 CFR 1.313(c)(2) and (2) correct a previously filed Terminal Disclaimer under the provisions of 37 CFR 1.182.

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 January 20, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition under 37 CFR 1.182 is **GRANTED**.

Petitioner asserts that the Terminal Disclaimer filed September 23, 2008 does not list the correct owners of the instant application. A Terminal Disclaimer listing the correct owners has been filed.

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

---

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

The application is being referred to Technology Center Art Unit 1644 for further processing of the request for continued examination under 37 CFR 1.114 and the Terminal Disclaimer filed February 20, 2009.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,865	12/10/2003	Charles E. Hagar	7784-000681	8230

27113 7590 08/04/2009
INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

EXAMINER
CYGAN, MICHAEL T

ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
08/04/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. HAGAR, CHARLES E. Issue Date: May 3, 2005 Appl No.: 10/732,865 Filed: December 10, 2003 For: Systems and Methods for Detecting and Locating Leaks in Internal Pressure Vessels	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed 11 May 2009 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.

Lisa Caputo
Supervisory Patent Examiner
Art Unit 2855
Technology Center 2800

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

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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CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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JUL 30 2008

In re Application of	:	
Bampton et al.	:	
Application No. 10/732,882	:	DECISION ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 67397-011PUS2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 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 (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 2, 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 Notice of Appeal with $510 fee; (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 1793 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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	:	
Ashfaqul I. Chowdhury, et. al.	:	
Application No. 10/732,885	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. LD 11255 GECZ 00404	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2879.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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Andrew N. Claerbout
Senniger Powers
One Metropolitan Square, 16th Floor
St. Louis, MO 63102

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of: Steven M. Shei, et. al. :
Application No. 10/732,889 : NOTICE
Filed: December 10, 2003 :
Attorney Docket No. DKE 9014.1 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARDNER GROFF, P.C.
PAPER MILL VILLAGE, BUILDING 23
600 VILLAGE TRACE
SUITE 300
MARIETTA GA 30067

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of	:
Lisk, Tai, and Hampton	:
Application No. 10/732,890	: DECISION ACCORDING STATUS
Filed: 10 December, 2003	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 2C03.1-141	:

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 20 August, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Ming-Kok Tai, has refused to sign the declaration for the above-identified patent application. Specifically, petitioners have shown, via the statement of petitioners' registered patent attorney Bradley K. Groff, that a copy of the application papers were sent to joint inventor Tai by E-mail. A copy of the declaration was also sent to Tai's last known address on two additional occasions. The non-signing inventor, however, failed to return an executed declaration naming him as a joint inventor along with James R. Lisk, Jr., and Scott M. Hampton.

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.

---

[1]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.

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

The application is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 09-04

Ming-Kok Tai
999 Cavesson Terrace
Lawrenceville GA 30045

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of
Lisk et al.
Application No. 10/732,890
Filed: 10 December, 2003
For: Disposable Separator for Separating the Epithelium Layer from the Cornea of an Eye

Dear Mr. Tai:

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

GARDNER GROFF, P.C.
PAPER MILL VILLAGE, BUILDING 23
600 VILLAGE TRACE
SUITE 300
MARIETTA GA 30067

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OFFICE OF PETITIONS

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

In re Application of:	:	
Andrew M. K. Pennell et al.	:	
Application No. 10/732,897	:	PETITION DECISION
Filed: December 9, 2003	:	
Attorney Docket No.: 019934-003720US	:	

This is a decision on the petition filed April 29, 2009 under 37 CFR 1.183 Requesting Waiver of Reexecution of Declaration which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.64.

The petition is **dismissed**.

The application as-filed identified six inventors as the inventive entity: Andrew Pennell, James Aggen, J. Wright, Subhabrata Sen, Brian McMaster and Daniel Dairaghi. A petition to correct inventorship under 37 CFR 1.48(a) was filed April 28, 2008 but was dismissed by the examiner in a notice mailed May 20, 2008.

Petitioner has filed the instant petition and states that one of the originally listed inventors, Brian McMaster, is deceased and has no legal representative to sign in his place. Petitioners have filed a renewed request for corrected inventorship under 37 CFR 1.48. The instant petition under 37 CFR 1.183 requests waiver of the requirements of 37 CFR 1.64 since no signature for McMaster can be provided. No other evidence to support the assertion that inventor MeMaster is deceased has been provided.

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. In this instance, Applicant asserts that an inventor is deceased. 37 CFR 1.42 states: "Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

The MPEP 409.01(f), proves instructive. It states:

> When a joint inventor of a pro se application dies after filing the application, the living joint inventor(s) must submit proof that the other joint inventor is dead. Upon submission of such proof, only the signatures of the living joint inventors are required on the papers filed with the USPTO if the legal representative of the deceased inventor does not intervene. If the legal representative of the deceased inventor wishes to intervene, the

> legal representative must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.64 (e.g., stating that he or she is the legal representative of the deceased inventor and his or her residence, citizenship and post office address). Once the legal representative of the deceased inventor intervenes in the pro se application, the signatures of the living joint inventors and the legal representative are required on the papers filed with the USPTO.

This section explains that when joint inventors are attempting to file papers in an application where one of the joint inventors in the application has died, before the papers may be accepted, proof that the other inventor is dead is required. However, in the present petition, Applicant has not submitted any proof other than a statement in the petition, that the non-signing inventor is dead, above that which was previously submitted. Applicant must submit proof that the joint inventor is dead. Acceptable proof would consist of a copy of a Death Certificate.

For this reason, the petition under 37 CFR 1.183 is dismissed.

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

By mail: Mail Stop Petition
Director 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 should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examine
Office of Petitions

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

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JAN 29 2010

In re Application of	:	
Andrew M.K. Pennell et al.	:	
Application No. 10/732,897	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 019934-003720US	:	

This is a decision on the renewed petition, filed on December 23, 2009, under 37 CFR 1.183 Requesting Waiver of Reexecution of Declaration which is being treated as a petition under 37 CFR 1.183 to waive the requirements of37 CFR 1.64.

The petition is **Granted.**

The petition under 37 CFR 1.183 filed April 29, 2009 was dismissed in a decision mailed October 27, 2009 for failing to provide proof that the joint inventor, Brian McMaster, is dead.

The instant renewed petition includes a copy of the Certification of Death as issued by the state of California for Brian McMaster. Accordingly, sufficient proof has now been provided that the joint inventor, Brian McMaster is dead and the petition is granted.

This application is being forwarded to Technology Center Art Unit 1624 for consideration of the Request for Correction of Inventive Entity under 37 CFR 1.48(a),

Telephone inquiries regarding this communication should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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STOEL RIVES LLP
ONE UTAH CENTER
SUITE 1100
201 SOUTH MAIN STREET
SALT LAKE CITY UT 84111

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MAR 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,585,349
Issued: September 8, 2009
Application No. 10/732,910
Filed: December 9, 2003
Attorney Docket No. 53433/2

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

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(d) filed on November 9, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 528 days to 1196 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-five (1195) 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 9, 2006 and ends on February 22, 2009, the day before the RCE was filed, and the B delay considering the 104 days of overlap is 806 (not 807) days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 702 days. As such, the patent term adjustment is 1195, not 1196 days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred ninety-five (1195)** days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,585,349 B2

DATED : September 8, 2009

INVENTOR(S) : Younan Xia

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 (528) days

Delete the phrase "by 528 days" and insert – by 1195 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

Mail Date: 04/20/2010

Applicant	: Bruce J. Cardinal	: DECISION ON REQUEST FOR
Patent Number	: 7596429	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/732,911	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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03 APR 2006

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

In re Application of :
JABRI, MARWAN A., et. al. :
Application No. 10/732,917 : DECISION ON PETITION
Filed: December 9, 2003 : TO MAKE SPECIAL
For: **METHODS AND SYSTEM FOR FAST SESSION ESTABLISHMENT BETWEEN EQUIPMENT USING H.324 AND RELATED TELECOMMUNICATIONS PROTOCOLS** :

This is a decision on the petition filed February 23, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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ROBERT N. CROUSE
MYERS BIGEL SIBLEY & SAJOVEC
POST OFFICE BOX 37428
RALEIGH NC 27627

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APR 16 2004
OFFICE OF PETITIONS

In re Application of	:
Kim et al.	:
Application No. 10/732,931	:DECISION GRANTING PETITION
Filed: 11 December, 2003	:
Attorney Docket No. 5649-1224	:

This is a decision on the petition filed on 1 April, 2004, requesting that the above-identified application be accorded a filing date of 11 December, 2003, instead of the presently accorded filing date of 12 December, 2003.

The petition is **GRANTED**.

Petitioners assert that the application was deposited in Express Mail service on 11 December, 2003. In support of petitioners' contention that the application was deposited in Express Mail Post Office to Addressee Service on 11 December, 2003, petitioners supplied, with the present petition, a copy of Express Mail Customer Label No. EV318417515US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file). The "date-in" on the Express Mail Label, has not been completed. The Express Mail label, however, contains an official USPS postmark, however, dated 11 December, 2003.

In view of the above, the application is entitled to a filing date of 11 December, 2003.

The petition is granted. No petition fee is due and none has been charged.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 11 December, 2003, not 12 December, 2003, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/732,931	12/11/2003	1762	770	5649-1224	5	16	3

CONFIRMATION NO. 7254

CORRECTED FILING RECEIPT

OC000000012391114

Robert N. Crouse
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

Date Mailed: 04/19/2004

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

Applicant(s)

Hong-Gun Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Kyu-Tae Na, Seoul, KOREA, REPUBLIC OF;
Eun-Kee Hong, Gyeonggi-do, KOREA, REPUBLIC OF;
Ju-Seon Goo, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-78779 12/11/2002

If Required, Foreign Filing License Granted: 03/16/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods of filling gaps by deposition on materials having different deposition rates

Preliminary Class
427

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

GRANTED

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

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

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

NOT GRANTED

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

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Paper No. 092004

PATENT ADMINSTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street
Suite 1600
Chicago, IL 60661-3693

SEP 29 2004

In re Application of:	:	
FAUNCE *et al.*	:	DECISION ON PETITION
Serial No.: 10/732,942	:	TO MAKE APPLICATION
Filed: December 11, 2003	:	SPECIAL
Attorney Docket No.: **211552-00050**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed December 11, 2003, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h) and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

The petition and accompanying papers are sufficient to satisfy the above-listed requirements for special status.

Accordingly, the petition is **GRANTED**.

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

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

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

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

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

Clayton E. LaBalle

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: App. No. 10/732,947
DATED: April 30, 2007
INVENTOR(S): Tidemand et al.

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

The first paragraph of the specification should be replaced with:

-- This application is a continuation-in-part of U.S. patent application Ser. No. 10/199,601 filed Jul. 19, 2002, which is a continuation in part of U.S. patent application Ser. No. 09/767,796 filed Jan. 23, 2001, now abandoned, which is a continuation of U.S. patent application Ser. No. 09/417,157 filed Oct. 12, 1999, now abandoned, which is a continuation of U.S. patent application Ser. No. 09/159,119 filed Sep. 23, 1998, now U.S. Patent. No. 6,205,358, which is a divisional of U.S. patent application Ser. No. 08/904,636 filed Aug. 1, 1997, now abandoned all of which are herein incorporated by reference. --

Carl H. Layno

CARL LAYNO
PRIMARY EXAMINER
ACTING SPE, AU 3766

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: App. No. 10/732,947
DATED: April 30, 2007
INVENTOR(S): Tidemand et al.

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

The first paragraph of the specification should be replaced with:

-- This application is a continuation-in-part of U.S. patent application Ser. No. 10/199,601 filed Jul. 19, 2002, which is a continuation in part of U.S. patent application Ser. No. 09/767,796 filed Jan. 23, 2001, now abandoned, which is a continuation of U.S. patent application Ser. No. 09/417,157 filed Oct. 12, 1999, now abandoned, which is a continuation of U.S. patent application Ser. No. 09/159,119 filed Sep. 23, 1998, now U.S. Patent. No. 6,205,358, which is a divisional of U.S. patent application Ser. No. 08/904,636 filed Aug. 1, 1997, now abandoned all of which are herein incorporated by reference. --

Carl H. Layno

CARL LAYNO
PRIMARY EXAMINER
ACTING SPE, AU 3766

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Paper No. None

DINSMORE & SHOHL LLP
Suite 500
One Dayton Centre
Dayton OH 45402-2023

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OFFICE OF PETITIONS

In re Application of :
Er-Xuan Ping :
Application No. 10/732,962 :
Filed: December 11, 2003 :
Attorney Docket No. MIO 0088 :
V3/40509.280 :
Title: EVEN NUCLEATION BETWEEN :
SILICON AND OXIDE SURFACES FOR :
THIN SILICON NITRIDE FILM GROWTH :

DECISION ON PETITION UNDER 37 C.F.R. §1.53

This is a decision on the petition filed June 30, 2004.

On December 11, 2003, the above-identified application was deposited. On June 22, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application - Filing Date Not Granted (notice)", stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the receipt of drawings. The Notice set a two-month period for response.

On June 30, 2004, Petitioner submitted a petition under 37 C.F.R. §1.53. The petition is further accompanied by the petition fee and a copy of 3 sheets of drawings containing Figures 1-3, along with a copy of applicants' postcard receipt acknowledging receipt of "one set of formal drawings (3 pages)" in the United States Patent and Trademark Office (Office) on December 11, 2003. Applicants request that the application, including Figures 1-3, be accorded a filing date of December 11, 2003.

Upon review of the electronic record, the above-mentioned figures have not been located among the application papers. However, the

evidence is convincing that the application papers deposited on December 11, 2003 included 3 sheets of drawings containing Figures 1-3, and each of the 3 sheets containing these figures was subsequently misplaced in the Office.

Therefore, the application, including Figures 1-3, was complete on filing and entitled to a filing date of December 11, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed June 22, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. No petition fee is required. If the petitioner wishes to have the $130.00 petition fee refunded, he should submit a request for refund to the Office of Finance[1]. A copy of this decision should accompany any such request.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 11, 2003, using the original application papers filed on that date, as well as Figures 1-3 submitted on June 30, 2004. OIPE will then mail a corrected filing receipt.

---

1 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Mail Stop 16, Director of the US Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

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

cc: DINSMORE & SHOHL LLP
Suite 1300
One Dayton Centre
Dayton OH 45402-2023

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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In re Patent No. 7,575,568	:
Holman et al.	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/732,983	: PATENT TERM ADJUSTMENT
Filed: December 10, 2003	: AND NOTICE OF INTENT
Attorney Docket No. S63.2B-10888-US01	: TO ISSUE CERTIFICATE OF CORRECTION
Title: CATHETER DISTAL TIP	:

This is a decision on the petition filed on October 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred eighty-six (486) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 11, 2006 and ends on August 12, 2007, the day before the date that the RCE was filed, and, is 245 days. **See** 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, the patent term adjustment is 485 days, not 486 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 **four hundred eighty-five (485)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,575,568 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Holman 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 325 days

Delete the phrase "by 325 days" and insert – by 485 days--

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
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CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of Verma et al. Application No. 10/732,992 Filed: December 11, 2003 Attorney Docket No. 208-6139CT	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed April 16, 2004, requesting that the above-identified application be accorded a filing date of December 11, 2003, rather than the presently accorded filing date of December 12, 2003.

Petitioner alleges that the application was deposited in Express Mail service on December 11, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV193584389US. Although the Express Mail label does not show a date-in, it does contain a United States Postal Service (USPS) stamp of December 11, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to December 11, 2003.

Telephone inquiries 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

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
10/732,992	12/11/2003	1751	2020	208-6139CT		56	10

CONFIRMATION NO. 8307

CORRECTED FILING RECEIPT

OC000000014430991

000826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 11/22/2004

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

Applicant(s)

Shyam Kumar Verma, Gastonia, NC;
George Robert Sandor, Gastonia, NC;

Power of Attorney: The patent practitioners associated with Customer Number **000826**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/656,545 09/06/2000 PAT 6,758,988
which claims benefit of 60/153,110 09/07/1999

Foreign Applications

If Required, Foreign Filing License Granted: 03/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/732,992

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Corrosion inhibiting solutions for absorption systems

Preliminary Class

252

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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F. MICHAEL SAVJOEC
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OFFICE OF PETITIONS

In re Application of	:	
Verma et al.	:	DECISION ON PETITION
Application No. 10/732,992	:	TO WITHDRAW
Filed: December 11, 2003	:	FROM RECORD
Attorney Docket No. 208-6139CT	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

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

A review of the file record indicates that on September 18, 2006 the power of attorney 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
Petitions Examiner
Office of Petitions

cc: Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine CA 92614

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Leslie Rousseau
1100 South Moline Street
Aurora CO 80012

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OFFICE OF PETITIONS

In re Application of Rousseau :
Application No. 10/733,008 :
Filing Date: December 10, 2003 :
For: Device And Method For Translating :
Language :

Decision on Petition

This is a decision on the petition filed November 5, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Facts:

A non-final Office action was mailed April 10, 2007. The Office action set an extendable period for reply of three months.

The maximum statutory period for reply to the non-final Office action was October 10, 2007.

On October 10, 2007, petitioner mailed a reply to the non-final Office action along with a $525 payment for a three-month extension of time. The reply was not mailed using the United States Postal Service. The reply was mailed using Federal Express.

The Office received the reply on October 11, 2007.

Discussion:

By statute, the application is abandoned unless a reply was "filed" on or before October 10, 2007. In other words, the Office lacks the authority to withdraw the holding of abandonment unless the petition demonstrates a reply was filed on or before October 10, 2007.

Normally, a paper is filed with the Office on the date the paper is received. However, 35 U.S.C. 21 states, with emphasis added.

> The Director [of the U.S.P.T.O.] may by rule prescribe that any paper or fee required to be filed ... will be considered filed in the Office on the date on which it was deposited within the *United States Postal Service....*

Since the reply was not mailed using the United States Postal Service, the Office is statutorily required to consider the filing date of the paper to be the date of receipt- October 11, 2007.

Since the filing date of the reply is October 11, 2007, the application is abandoned.

Current Option:

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($770 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner submitted $525 for an extension of time on October 11, 2007, beyond the maximum extendable period for reply. Therefore, petitioner may request a refund of the fee. In the alternative, if a petition under 37 CFR 1.137(b) is filed, petitioner may request the $525 be applied towards the petition fee and submit an additional $245 ($525 + $245 = $770).

A petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Additional information:

The heading of papers filed with the Office:

The top portion of the first page of the petition states,

In re application of [:] 10/733,008

Application No. 2004122678

In future papers, in order to ensure papers are promptly matched with the file, please take the following actions:

(1) Type your name, "Rousseau," after the words "In re application of", and
(2) Type the application number, 10/733,008, after the words, "Application No.".

Information with respect to the use of Certificate of Mailing/Transmission practice:

As a courtesy, please find attached a brief description of Certificate of Mailing/Transmission practice.

Time period and address for a request for reconsideration or petition under 37 CFR 1.137(b):

Any request for reconsideration or petition under 37 CFR 1.137(b) should be submitted within TWO (2) MONTHS from the mail date of this decision.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: PTO/SB/64 form
Explanation of how to use Certificate of Mailing Practice
Form PTO/SB/21
Privacy Act Statement

PTO/SB/64 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

Certificate of Mailing Practice:

Using "Certificate of Mailing" procedures, one may ensure that certain papers filed with the Office are considered timely even if the Office does not physically receive the papers until after the end of the period of time for reply.

Example: A reply is due by May 1, 2006.

A reply is mailed with the United States Postal Service on May 1, 2006.

The reply is delayed in the mail and is not delivered to the USPTO until May 5, 2006.

If the reply was properly mailed using "Certificate of Mailing" procedures, the reply will be considered timely even though the reply was received on May 5, 2006.

"Certificate of Mailing" procedures can allow one to prove a paper was timely mailed when USPTO records fail to indicate the paper was received.

The first step in using "Certificate of Mailing" is placing the proper language on a portion of each paper being submitted or placing the certification language on a separate sheet. If the certification is presented on a separate sheet, that sheet must:

(1) be signed,
(2) be securely attached to the papers filed, **AND**
(3) fully and completely identify each paper being attached, e.g., reply to final rejection, Notice of Appeal, etc.

A suggested format for the Certificate of Mailing can be found below.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage on (put the DATE) as first class mail in an envelope addressed to:

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Typed or printed name of person signing this certificate

_____

Signature: _____

One may also use "Certificate of Mailing" procedures to submit a paper by facsimile transmission. If use for facsimile transmission, the certification is called a "Certificate of Transmission." A suggested format for the Certificate of Transmission can be found below.

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on (put the date).

Typed or printed name of person signing this certificate

_____

Signature: _____

The second step necessary to properly use "Certificate of Mailing" procedures requires the individual who will be mailing or sending the paper(s) by facsimile transmission to complete the information in the Certificate of Mailing or Transmission *on the date it will be mailed or transmitted.*

The third step is to make a copy of the paper(s) and retain the copy of the papers. The copy should be made *after* the Certificate has been properly completed (dated, signed, etc.).

The fourth step, when one wishes to mail the paper, is mailing the paper by first class using the United States Postal Service on the date listed in the Certificate. The term "first class mail" also includes papers mailed with the USPS by Express Mail or Priority Mail.

The fourth step, when one wishes to transmit the paper, is sending the transmission on the date listed in the Certificate, obtaining a sheet from the sending unit verifying the transmission was successful, and retaining the sheet.

It should be noted that the benefits of a Certificate of Mailing/Transmission procedures do not apply to all papers.[1] In addition to the exceptions listed in the footnote, one may not use a Certificate of *Transmission* for some drawing submissions. However, since sending a paper by facsimile transmissions degrades the quality of the image, a person in the United States may wish to mail drawings even in circumstances where the drawings could be submitted by facsimile transmission.

The following page is a copy of a suggested Transmittal Form prepared by the Office. Please note the Certificate of Mailing/Transmission located on the bottom of the form.

---

[1] Certificate of Mailing or Transmission practice does not apply to the submission of original application papers, Continued Prosecution Applications, some papers related to interference practice, the filing of an international application, the filing of papers in an international application, and the filing of copy of international application and fee required to enter national stage.

PTO/SB/21 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Total Number of Pages in This Submission

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please Identify below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name			
Date		Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. 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 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

UNITED STATES 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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MAY 14 2008

OFFICE OF PETITIONS

LESLIE ROUSSEAU
1100 SOUTH MOLINE STREET
AURORA, CO 80012

In re Application of :
Leslie Rousseau :
Application No. 10/733,008 : ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. Rosseau.830001.US0:

This is a decision on the renewed petition, filed April 16, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed April 10, 2007. A Notice of Abandonment was subsequently mailed on March 17, 2008. On March 16, 2008, a petition to withdraw the abandonment under 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed March 25, 2008. In response, on April 16, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2626 for appropriate action by the Examiner in the normal course of business on the response received October 11, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

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

PETITION DECISION

09/08/04

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

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/733014 received on 05/25/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 082304

William S. Rouverol
C/O VoteSure
1735 Martin Luther King Way
Berkeley, CA 94709

AUG 30 2004

In re Application of:
Rouverol
Serial No.: 10/733,032
Filed: December 11, 2003

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 11, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a drivers license from the inventor, William S. Rouverol, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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FEB 0 3 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Houston, Theodore W.	:	
Application No. 10/733,038	:	
Filed: December 11, 2003	:	
Attorney Docket No. TI 35881	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 17, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

Cc: HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 23 2008

SAWYER LAW GROUP LLP
PO BOX 51418
PALO ALTO CA 94303

In re Application of	:
Challener et al.	: DECISION ON PETITION
Application No. 10/733,055	:
Filed: December 11, 2003	:
For: RPSP920030164US1	:

This is a decision on the petition to expunge under 37 CFR 1.59(b), filed June 19, 2007.

The petition under 37 CFR 1.59(b) is **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 1.59(b)." This is not a final agency decision.

Petitioner requests that the Office expunge the terminal disclaimer filed on June 7, 2007 and June 18, 2007 to disclaim application numbers 10/733,591 and 10/733,592. Applicants attorney later realized that the respective applications are no longer assigned/owned by international Business Machine Corporation but to Lenovo Pte, Ltd.

In view thereof, petitioners request that the submissions dated June 7, 2007 and June 18, 2007 be expunged from the application file.

In accordance with 37 CFR 1.59(b), "[a]n applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided."

In accordance with 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."

The instant petition fails to satisfy items (B), (C), (D), and (E).

Accordingly, expungement of the documents filed June 7, 2007 and June 18, 2007 is not deemed appropriate, given the limited information provided in the petition..

It should further be noted that petitioner may wish to file a petition requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed June 7, 2007 and June 18, 2007 be withdrawn. Petitioner's request will be reviewed by the examiner who will determine whether examiner concurs with petitioner's arguments.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTOR'S OFFICE

NOV 17 2007

TECHNOLOGY CENTER 3600

AUTOLIV ASP, INC
Attn: Sally J. Brown ESQ
3350 Airport Rd
OGDEN UT 84405

In re Application of
Marcus Clark
Appl. No. 10/733,060
Filed: December 11, 2003
For: SNAP-LOCKING INITIATOR ASSEMBLIES FOR INFLATOR DEVICES

: **ON PETITION TO**
: **WITHDRAW FINALITY**

This is a decision on Applicant's Petition under 37 CFR 1.81 filed on October 19, 2007 to withdraw the finality of the office action mailed August 20, 2007.

The petition is **DENIED**.

FACTS

The request is based the fact that status of claim 21 in the first office action was unclear. The facts set forth below are set forth as they apply to the issue at hand.

On September 22, 2005 a non-final office action was mailed. The coversheet and the summary of the action indicated claim 21 as being allowable while in the action paragraph 14 indicated claim 21 as being rejected.

Applicant filed a response on December 27, 2005, and completing the response on March 20, 2006. In those responses, claim 21 was treated by applicant as allowable.

In May 2, 2007 a notice of non-responsive amendment was mailed stating that while the "Office Action Summary indicates claim 21 as allowed, paragraph 14 of the Office action provides a clear rejection of the claim".

On May 16, 2007, an interview between the applicant and the examiner confirmed that claim 21 was rejected.

On May 29, 2007 applicant files an amendment which addresses the rejection of claim 21.

On August 20, 2007, the examiner issues a final rejection, finally rejecting a number of claims including claim 21.

ISSUE

The applicant contends that:

1.) the non-final office action as a whole did not warrant the detailed action of December 22, 2005 as required by the examiner.

2.) applicants reading of the clear language of the Office Action regarding claim 21 was justified and should not hold the actions mistake against the applicant.

3.) applicant asserts that the rejection of claim 21 is improper as it does not clearly address all the limitation of claim 21 in a manner to allow applicant to properly respond.

DECISION

Regarding applicant's first point, this issue is Moot since applicant provided a detailed response on May 29, 2007.

Regarding applicant's second point, it is unclear what actions are being held against the applicant. The matter was clarified by an interview prior to applicant filing a response to the rejection of claim 21. Also, the fact that the applicant had to file a second response in light of the clarification of claim 21 does not appear to be solely the fault of the examiner. A clear reading of the detailed office action sets forth a separate paragraphed rejection of claim 21. Applicant had an opportunity to consult the examiner prior to filing any response.

With respect to the third point, a review of the application shows that the various elements of the claim have been claimed and addressed in previous dependent claims, with the exception of the adapter plate, which was addressed by the examiner. Additionally, the examiner responded to applicant's comments regarding the "wherein" statement in the final rejection. Therefore, this is a matter related to the prosecution of the merits claims and cannot be treated by petition. Applicant is suggested to file a pre-appeal request to have the matter of a potential clear error raised by an expanded panel of primary examiners.

The Petition is **DENIED**.

The finality of the August 20, 2007 Office action remains in effect and the case is being forwarded to the examiner of record to treat the After-Final amendment of October 19, 2007.

Any question concerning this decision should be referred to SPE Michael Carone at 571-272-6873.

Donald T. Hajec
Director,
Technology Center 3600

Mjc/snm: 11/9/07

SM

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

Paper No. None

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED
JUN 05 2006
OFFICE OF PETITIONS

In re Application of :
Je-Young Chang et al. :
Application No. 10/733,099 :
Filed: December 10, 2003 : DECISION ON PETITION
Attorney Docket No. 42P18071 : UNDER 37 C.F.R. §1.181(A)
Title: HEAT PIPE INCLUDING :
ENHANCED NUCLEATE BOILING :
SURFACE

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on July 20, 2005.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 12, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 13, 2004. A notice of abandonment was mailed on June 8, 2005.

With the present petition, Petitioner has asserted that the electronic file indicates that a response to this Office action was received in the Office on November 12, 2004. The electronic file has been reviewed, and it is clear that a response was indeed received on this date.

It is equally clear that this response was only recently matched with the present file. The papers were likely originally matched with the wrong file because Petitioner placed the wrong serial number on his submission - the fax cover page, the transmittal form, the fee transmittal form, the amendment, the specification, the claims, the remarks, and the drawings each

bears the serial number 10/773,099. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Paul Shanoski

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

cc: Alan Pedersen-Giles
c/o Intel Americas
LF3
4030 Layfayette Center Drive
Chantilly, VA 20151

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Brecheisen et al.	:	
Application No. 10/733,119	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 17508-02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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

The instant petition lacks item(s) (3).

From the statements both in the Affidavit of Jodi L. Yingling and the email provided, the delay in reviving the instant application appears to have been *intentional*, rather than unintentional. The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or

---

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

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

unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71.

A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989).

An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

Though the Affidavit states that the application was "mistakenly" abandoned, it was a deliberate decision *at that time* and therefore does not quality for revival under the unintentional standard as the *entire delay* must be unintentional.

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary. Therefore, it is further 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.

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

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: MILES & STOCKBRIDGE, P.C.
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

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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Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

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OFFICE OF PETITIONS

In re Application of :
Chiappetta : DECISION ON PETITION
Application No. 10/733,121 :
Filed: December 11, 2003 :
Atty. Docket No.: 893.0012USU :

This is a decision on the petition under 37 CFR 1.182, filed February 10, 2005. This petition is also being treated under 37 CFR 1.26(a) as a request for refund.

DECISION UNDER 37 CFR 1.182

In accordance with 37 CFR 1.182, "[a]ll situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h)."

Petitioner herein requests a refund of a previously submitted petition for extension of time fee. As refunds are specifically addressed at 37 CFR 1.26, a petition under 1.182 is not proper.

Accordingly, the petition under 37 CFR 1.182 is **DISMISSED**.

DECISION UNDER 37 CFR 1.26(a)

In accordance with 37 CFR 1.26(a), the Director may refund any fee paid by mistake or in excess of that required.

A Notice to File Missing Parts was mailed March 19, 2004. The Notice, however, was withdrawn and a new Notice was mailed on December 8, 2004. The new Notice set a two month shortened statutory period of time for reply. Accordingly, the petition for extension of time for response to the Notice mailed March

19, 2004 is not necessary. Accordingly, the request for refund is hereby **GRANTED**.

A refund of $2,080.00 to Deposit Account No. 50-1239 has been requested from the Finance Office, Refund Section.

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

02 AUG 2005

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ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO, IL 60606-1615

In re Application of ADEMA	:	
U.S. Application No.: 10/733,148	:	
PCT Application No.: PCT/NL01/00554	:	
Int. Filing Date: 19 July 2001	:	DECISION
Priority Date Claimed: 19 July 2000	:	
Attorney Docket No.: 0003150.0002	:	
For: SYSTEM FOR DISPENSING PORTIONS	:	
OF VARIOUS SUBSTANCES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 12 December 2003.

BACKGROUND

On 19 July 2001, applicant filed international application PCT/NL01/00554, which claimed priority of an earlier Netherlands application filed 19 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 24 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 19 January 2003.

International application PCT/NL01/00554 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 December 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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 08 June 1995.

With regard to item (1), the filing of a continuation application under 35 U.S.C. 111(a) is a proper reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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Alexandria, VA 22313-1450
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ZHAOYANG LI
SQUIRE, SANDERS & DEMPSEY, L.L.P.
SUITE 300
ONE MARITIME PLAZA
SAN FRANCISCO, CA 94111

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JUL 1 5 2004

OFFICE OF PETITIONS

In re Application of
Soo, Chia
Application No. 10/733,150
Filed: December 10, 2003
Attorney Docket No. 62855.4

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 20, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 10, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request sets forth the projected publication date of September 2, 2004.

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

This application is being forwarded to Technology Center Art Unit 1632 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: AARON WININGER
SQUIRE, SANDERS & DEMPSEY, L.L.P.
600 HANSEN WAY
PALO ALTO, CA 94304-1043

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald E. Steiss et al.	:	
Application No. 10/733,153	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. 03311.0009U1	:	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 12, 2007.

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 December 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Needle & Rosenberg, P.C.**
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : MAY 17, 2007

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10733171 Patent No.: 7040417B2

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: The changes are approved. HD

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Liniak, Berenato & White
6550 Rock Spring Drive
Suite 240
Bethesda, MD 20817

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MAY 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Alan Glazier	:	
Application No. 10/733,173	:	DECISION ON PETITION
Filed: December 10, 2003	:	TO WITHDRAW
Attorney Docket No. 4009.005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

Thomas P. Liniak has been withdrawn as attorney or agent; all other attorney remain of record.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marc A. Hubbard
Munsch Hardt Kopf & Harr, P. C.
4000 Fountain Place
1445 Ross Avenue
Dallas TX 75202-2790

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OFFICE OF PETITIONS

In re Application of	:
Eric Jiang, Jie Wei, Andrew Caffrey, Karen	: DECISION GRANTING STATUS
Joiner-Congelton, Yong Kim, Bradley Paye and	: UNDER 37 CFR 1.47(a) AND
Ryan Persichilli	: 37 CFR 1.137(b)
Application No.10/733,178	:
Filed: December 10, 2003	:
Attorney Docket No. 498552000200	:
Title of Invention: Method and System for Analyzing Data and Creating Predictive Models	

This is in response to the petitions filed February 13, 2006, under 37 C.F.R. §1.47(a) and the petition to revive under 37 CFR 1.137(b).

Petition Under 37 CFR 1.47

Petitioner has shown that the non-signing inventors Caffrey, Joiner-Congleton and Kim have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition and declaration of facts attest a copy of the application was mailed to each of the non-signing inventors. The non-signing inventors' failure to respond to the application papers sufficiently establishes that they refuse to execute the application papers.

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

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

Petition under 37 CFR 1.137(b)

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on March

18, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 19, 2004. A Notice of Abandonment was mailed on July 15, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Karen Christiana Joiner-Congleton
9415 Ovieda Street
San Diego, California 92129

In re Application of
Eric Jiang, Jie Wei, Andrew Caffrey, Karen Joiner-Congelton, Yong Kim, Bradley Paye and Ryan Persichilli
Application No.10/733,178
Filed: December 10, 2003
Attorney Docket No. 498552000200
Title of Invention: Method and System for Analyzing Data and Creating Predictive Models

LETTER

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

Dear Ms. Joiner-Congelton :

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 (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Marc A. Hubbard
Munsch Hardt Kopf & Harr, P. C.
4000 Fountain Place
1445 Ross Avenue
Dallas TX 75202-2790

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Andrew John Caffrey
3737 Promontory Street
San Diego, California 92109

In re Application of
Eric Jiang, Jie Wei, Andrew Caffrey, Karen Joiner-Congelton, Yong Kim, Bradley Paye and Ryan Persichilli
Application No.10/733,178
Filed: December 10, 2003
Attorney Docket No. 498552000200
Title of Invention: Method and System for Analyzing Data and Creating Predictive Models

LETTER

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

Dear Mr. Caffrey :

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 (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Marc A. Hubbard
Munsch Hardt Kopf & Harr, P. C.
4000 Fountain Place
1445 Ross Avenue
Dallas TX 75202-2790

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Alexandria, VA 22313-1450
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Yong M. Kim
13565 Freeport Road
San Diego, California 92129

In re Application of
Eric Jiang, Jie Wei, Andrew Caffrey, Karen Joiner-Congelton, Yong Kim, Bradley Paye and Ryan Persichilli
Application No.10/733,178
Filed: December 10, 2003
Attorney Docket No. 498552000200
Title of Invention: Method and System for Analyzing Data and Creating Predictive Models

LETTER

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

Dear Mr. Kim :

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 (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Marc A. Hubbard
Munsch Hardt Kopf & Harr, P. C.
4000 Fountain Place
1445 Ross Avenue
Dallas TX 75202-2790

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OIW Feb-07

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

FEB 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Zhen Qiang Liu	:	
Application No. 10/733,179	:	ON PETITION
Filed: 10 December, 2003	:	
Atty Docket. P/3987-49	:	

This is a decision on the petition filed under 37 CFR 1.182 on 25 August, 2006, to correct the sole inventor's name.

The petition is **GRANTED**.

Petitioner asserts that **Zhen Qiang Liu** is the correct Chinese name of the inventor, and that the name under which the application was filed: "Bull Lau," is the Westernized name under which he conducts business. Applicant has presented a statement signed by the inventor.

The inventor's name has been corrected.

Office PALM records have been corrected to reflect the correct invention title. A corrected Filing Receipt is attached.

As the error was that of petitioner, rather than the Office, the petition fee will be charged.

It is noted that the issue fee was paid on 7 December, 2006. In the event that processing of the application has progressed to a point at which making the requested change would cause substantial disruption to the issuance of a patent, and the change is not reflected on the issued patent, petitioner may request a certificate of correction, accompanied by the appropriate fee.

The application will be referred to Technology Center 3765 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: 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
10/733,179	12/10/2003	3765	1538	P/3987-49	8	34	4

CONFIRMATION NO. 8040

CORRECTED FILING RECEIPT

OC000000022673647

2352
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Date Mailed: 02/27/2007

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)

ZHEN QIANG LIU, Shenzhen, CHINA;

Assignment For Published Patent Application

Regina Miracle International Limited

Power of Attorney: The patent practitioners associated with Customer Number **2352**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/733,179

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

BRA CONSTRUCTION

Preliminary Class

450

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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RAYMOIND A. MILLER
PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

COPY MAILED

MAY 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert Zeller, et al.	:	
Application No. 10/733,218	:	DECISION ON PETITION
Filed: December 11, 2003	:	TO WITHDRAW
Attorney Docket No. 126457.101	:	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 16, 2005.

The request is **NOT APPROVED**.

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

The 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.

While assignee attempted to intervene in the above-identified application, the power of attorney filed September 29, 2005 does not comply with 37 CFR 3.73(b) in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96). A courtesy copy of this decision is being mailed to the address noted in the power or attorney filed September 29, 2005.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: MYKROLIS CORPORATION
129 CONCORD ROAD
BILLERICA MA 01821-4600

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED
MAR 17 2010

In re Application of	:	
Ben Achour et al.	:	
Application No. 10/733,232	:	ON APPLICATION FOR
Filed: December 12, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 3495.0381-00	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT filed December 19, 2008. Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred sixty-six (266) days, not zero (0) days as calculated at the time of the mailing of the notice of allowance. Applicants request this correction in part on the basis that the Office will take in excess of three years to issue this patent[1].

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, 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

[1] It is noted that a request for continued examination (RCE) was first filed in this application on June 25, 2007. An RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

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[2].

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of mailing of the notice

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

of allowance, the application for patent term adjustment is **DISMISSED**.

On September 26, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On December 22, 2008, applicant timely submitted the instant application for patent term adjustment[3]. Applicant maintains that an additional period of adjustment should be entered as the Office mailed a first Office action in response to applicant's request for continued examination filed June 25, 2007 on September 7, 2007, but then withdrew that Office action and mailed a corrected Office action on March 4, 2008. Applicant asserts entitlement to an adjustment of 130 days for Office delay for the period from the date four months from the filing date of the RCE, October 25, 2007, to the date of mailing of the corrected Office action, March 4, 2008.

Applicant states that the above-identified application is not subject to a terminal disclaimer.

Applicant's argument has been considered, but not found persuasive. A notification under 35 U.S.C. 132 was mailed on September 7, 2007. Thereafter, a second notification under 35 U.S.C. 132 was mailed on March 4, 2008. The mailing of a second Office action withdrawing the first action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(2) on September 7, 2007. Accordingly, entry of an additional period of adjustment of 130 days for Office delay in mailing a further notification is not warranted.

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 application is being forwarded to the Office of Data Management for issuance of the patent. The patent term

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[3] PALM records indicate that the issue fee was also paid on December 22, 2008.

adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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3/13/08

Robert W. Hahl, Ph.D
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

Paper No. 2008-03-17

LETTER RESCINDING NOTICE OF ABANDONMENT

A Notice of Abandonment, Form PTO-1432, was mailed on March 07, 2008, in patent application Serial Number 10/733,292. The Notice of Abandonment alleged that the period for seeking court review of the decision by the Board of Patent Appeals and Interference rendered on 18 May 2007 has expired and there are no allowed claims. However, the Appellant requested rehearing pursuant to 37 CFR 41.50(b)(2) on 03 July 2007. The Board of Patent Appeals and Interference denied the rehearing on 23 January 2008. As set forth in 37 CFR §1.304(a)(1), the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

The Notice of Abandonment therefore was sent out prematurely and the Notice of Abandonment is, therefore, hereby RESCINDED.

Any inconvenience occasioned by the delay in associating the response with the application file is regretted.

Todd E. Manahan
Supervisory Patent Examiner
GAU 3731/3734
571 - 272 - 4317

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **AUGUST 9, 2007**

TO SPE OF : ART UNIT **1647**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/733311** Patent No.: **7232667 B2**

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

Manjunath (M.RAO) 1647

SPE **Art Unit**

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ALEXANDRIA VA 22313-1404

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JUN 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Nobuyuki Nakashima et al	:	
Application No. 10/733,333	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. 033294-022	:	

This is a decision on the petition, filed June 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 12, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3745 will consider the request for continued examination under 37 CFR 1.114.

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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United States Patent and Trademark Office
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NOV 30 2005

Director's Office
Group 3700

Bernard P. Codd
600 13th Street N.W.
Washington DC 20005-3096

In re Application of: KAMIJO, MOTOHISA
Appl. No.:10/733,369
Filed: December 12, 2003
For: STARTUP COMBUSTOR

:DECISION ON PETITION

This is a decision on the petition filed on September 8, 2005 by which petitioner requests restart of time period for response to commence from stated date of receipt of Office Action from PAIR due to non-receipt of Office action via US Postal Service. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

It appears from the petition that the Office letter in question, mailed May 25, 2005, was never received by petitioner. This conclusion is reached based upon the evidentiary showing that accompanies the petition, which is persuasive that the Office letter in question was not received. In general, compare the requirements of the Notice published at 1156 OG 53 with respect to nonreceipt of Office correspondence. It is noted that the evidence presented is related to docketing systems that would indicate a response being due on a particular date rather than evidence of logging of incoming mail on or about the estimated time receipt of the May 25 2005 Office Action. However, petitioner does aver that petitioner's common business practices include dating /logging of all correspondence received from the USPTO, and that daily docket reports and log books do not show an entry for the instant application.

It appears that petitioner is entitled to have the Office letter dated May 25 2005 remailed. However, petitioner has also stated that petitioner's have retrieved a copy of the May 25, 2005 Office Action from the PAIR system on August 26, 2005. Petitioner is requesting the three-month time period for response be reset from the date of retrieval from the PAIR system. This request is reasonable and appropriate.

Accordingly, the application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 to have an entry in the PALM system made to show that the paper of December 17, 2004 has been remailed as of August 26, 2005.

PETITION GRANTED

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Group 3700

Bernard P. Codd
600 13th Street N.W.
Washington DC 20005-3096

In re Application of: KAMIJO, MOTOHISA
Appl. No.:10/733,369
Filed: December 12, 2003
For: STARTUP COMBUSTOR

:DECISION ON PETITION

This is a decision on the petition filed on September 8, 2005 by which petitioner requests restart of time period for response to commence from stated date of receipt of Office Action from PAIR due to non-receipt of Office action via US Postal Service. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

It appears from the petition that the Office letter in question, mailed May 25, 2005, was never received by petitioner. This conclusion is reached based upon the evidentiary showing that accompanies the petition, which is persuasive that the Office letter in question was not received. In general, compare the requirements of the Notice published at 1156 OG 53 with respect to nonreceipt of Office correspondence. It is noted that the evidence presented is related to docketing systems that would indicate a response being due on a particular date rather than evidence of logging of incoming mail on or about the estimated time receipt of the May 25 2005 Office Action. However, petitioner does aver that petitioner's common business practices include dating /logging of all correspondence received from the USPTO, and that daily docket reports and log books do not show an entry for the instant application.

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PETITION GRANTED

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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Director's Office
Group 3700

Bernard P. Codd
600 13th Street N.W.
Washington DC 20005-3096

In re Application of: KAMIJO, MOTOHISA
Appl. No.:10/733,369
Filed: December 12, 2003
For: STARTUP COMBUSTOR

:DECISION ON PETITION

This is a decision on the petition filed on September 8, 2005 by which petitioner requests restart of time period for response to commence from stated date of receipt of Office Action from PAIR due to non-receipt of Office action via US Postal Service. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

It appears from the petition that the Office letter in question, mailed May 25, 2005, was never received by petitioner. This conclusion is reached based upon the evidentiary showing that accompanies the petition, which is persuasive that the Office letter in question was not received. In general, compare the requirements of the Notice published at 1156 OG 53 with respect to nonreceipt of Office correspondence. It is noted that the evidence presented is related to docketing systems that would indicate a response being due on a particular date rather than evidence of logging of incoming mail on or about the estimated time receipt of the May 25 2005 Office Action. However, petitioner does aver that petitioner's common business practices include dating /logging of all correspondence received from the USPTO, and that daily docket reports and log books do not show an entry for the instant application.

It appears that petitioner is entitled to have the Office letter dated May 25 2005 remailed. However, petitioner has also stated that petitioner's have retrieved a copy of the May 25, 2005 Office Action from the PAIR system on August 26, 2005. Petitioner is requesting the three-month time period for response be reset from the date of retrieval from the PAIR system. This request is reasonable and appropriate.

Accordingly, the application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 to have an entry in the PALM system made to show that the paper of ~~December 17, 2004~~ MAY 25, 2005 has been remailed as of August 26, 2005.

PETITION GRANTED

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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MCGUIRE WOODS
SUITE 1800
1750 TYSONS BOULEVARD
MCLEAN VA 22102

In re Application of :
Chidambarrao et al :
Application No. 10/733,378 : ON PETITION
Filed: December 12, 2003 :
Attorney Docket No. FIS902003-0243US1 :

This is a decision on the petition, filed May 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2812 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON VA 20191

---

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

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Paper No. _____

Date : May 9, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Dureseti Chidambarrao et al
Application No. :10/733,378
Filed :December 12, 2003

The above-identified application has been assigned Patent No. 7,045,402 and an issue date of May 16, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 16, 2006:

"All reference to Patent No. 7,045,402 to Dureseti Chidambarrao et al of Connecticut for STRAINED FINFETS AND METHOD OF MANUFACTURE appearing in the Official Gazette of May 16, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,380	12/12/2003	Koki Okamura	FJ-2003-046-US	8530

21254 7590 04/16/2008
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER
PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
2164	

MAIL DATE	DELIVERY MODE
04/16/2008	PAPER

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

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

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Scott M. Tulino, Esq.
McGinn Intellectual Property Law Group, PLLC
8321 Old courthouse Road
Suite 200
Vienna, VA 22182-3817

In re Application of:
KoKi OKAMURA
Application No. 10/733,380
Filed: December 12, 2003
For: FILE TRANSFER PROGRAM

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petitions, filed on 15 March 2007, under 37 CFR § 1.181 to invoke Supervisory Authority of the Director and to request the Director to order the Examiner to consider the Affidavits filed on 05 September 2006, 14 November 2006 and 26 January 2007.

The petition is **DISMISSED AS MOOT**.

A review of the application file history, it revolves that (1) the Affidavit filed on 14 November 2006 was not available for the examiner to consider at the time the Final Office Action of 27 November 2006 was prepared; (2) the Affidavit filed on 26 January 2007 was not entered and considered for the reasons as stated in the Advisory Action mailed 08 February 2007; (3) a Request for Continued Examination was filed on 27 February 2007 and specifically requested that the previously submitted response and the Affidavit of 26 January 2007 be considered as a submission; and (4) the instant petition was filed.

37 C.F.R. § 1.114(d) states, in part:

- If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

In view of 37 C.F.R. § 1.114(d) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e) and an amendment that meets the reply requirements of 37 CFR § 1.111, the Office is hereby withdrawn the finality of any Office action to which a reply is outstanding and both the response and the affidavit of 26 January 2006 will be entered and considered.

Accordingly, the petition is **DISMISSED AS MOOT;** the examiner is required to fully consider the Affidavits filed on 05 September 2006, 14 November 2006 and 26 January2007. A delay to render a decision on the petition filed 15 March 2007 is hereby regretted.

The application is being forwarded to the Technology Center support staff for processing and entering the response filed on 15 March 2007. From there, the application will be forwarded to the examiner of record to prepare an appropriate Office communication.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Young-Sik Huh	: DECISION ON REQUEST FOR
Patent Number	: 7606412	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1011** 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 05/17/2010

Applicant : Young-Sik Huh
Patent Number : 7606412
Issue Date : 10/20/2009
Application No : 10/733,388
Filed : 12/12/2003

: 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 **1109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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February 2005

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

FEB - 8 2005

In re Application of:
Shigenobu Nakamura
Serial No.: 10/733,391
Filed: December 12, 2003
Attorney Docket No.: 111288.02

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 C.F.R. § 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 C.F.R. § 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons for withdrawal will be communicated by the examiner in charge of the application.

United States Patent and Trademark Office (USPTO) records indicate that the issue fee has not yet been submitted. If the issue fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may further request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified in the new Notice of Allowance and Issue Fee.

The application is being forwarded to the examiner for immediate appropriate action, including notifying applicant of the new status of the application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Sung Joon Bae et al	:	
Application No. 10/733,403	:	DECISION GRANTING PETITION
Filed: December 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 049128-5115	:	

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 April 24, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\733403.wpd

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

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Young-sik Huh	: DECISION ON REQUEST FOR
Patent Number	: 7616214	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,406	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1676** 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

In re Application of	:	
Burn et al.	:	
Application No. 10/733,407	:	DECISION ON PETITION
Filed: December 12, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 021565-122	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed September 21, 2007 and supplemented on November 16, 2007 to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by a supplemental application data sheet to include a reference to the prior-filed provisional applications. While a reference to the prior-filed provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter 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 or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional applications in the transmittal letter filed with the application, as shown by their 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.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Although petitioner is not required to file a petition under 37 CFR 1.78(a)(6) in order to add the priority claim, petitioner must file a proper amendment or supplemental ADS in order to add the claim. The supplemental ADS filed November 16, 2007 is improper in so far as it fails to comply with the requirements of 37 CFR 1.312.

37 CFR 1.312 states,

> No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Director, without withdrawing the application from issue.

MPEP 714.16 states,

> [T]he amendment may be made as a matter of right in an application after the mailing of the application. Accordingly, the following are examples of "amendments" by applicant after allowance which must comply with 37 CFR 1.312:
>
> (A) an amendment to the specification,
> (B) a change in the drawings,
> (C) an amendment to the claims
> (D) a change in the inventorship,
> (E) the submission of prior art,
> (F) a petition to correct the spelling of an inventor's name,
> (G) a petition to change the order of the names of the inventors, etc.

Since the supplemental ADS seeks to change the file record the supplemental ADS is an "amendment" within the meaning of 37 CFR 1.312. Therefore, a supplemental ADS filed after the mailing of a Notice of Allowance must comply with 37 CFR 1.312.

MPEP 714.06 states, "an amendment under 37 CFR 1.312 must be filed on or before the date the issue fee is paid, except where the amendment is required by the Office of Patent Publication, see MPEP §714.16(d), subsection III." The supplemental ADS, was filed after payment of the issue fee and was not required by the Office of Patent Publication. Therefore, the supplemental ADS fails to comply with 37 CFR 1.312.

If petitioner wishes to add the priority claim, a petition to withdraw from issue and a Request for Continued Examination should be filed prior to issuance of the patent. Absent such action, the patent will issue without the claim. Petitioner should note a Certificate of Correction cannot be employed to correct an applicant's mistake by adding or correcting a priority claim under 35 U.S.C. 119(e) for an application on or after November 29, 2000.

The Office of Patent Application Processing will be informed of the instant decision and will issue the application as a patent , without the priority claim in the supplemental ADS, in due course unless a petition to withdraw the application from issuance is timely filed and granted.

Any questions concerning this decision on petition may be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Joanne Elizabeth Burn et al.	:	
Application No. 10/733,407	:	DECISION GRANTING PETITION
Filed: December 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 021565-122	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 31, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 6, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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

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OFFICE OF PETITIONS

In re Application of	:
Kohei Sakurai et al	:
Application No. 10/733,416	: DECISION GRANTING PETITION
Filed: December 12, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 056207.53080US	:

This is a decision on the petition, filed March 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar10\733416.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.*

JFM

53080US

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OFFICE OF PETITIONS

In re Application of	:	
Kohei Sakurai et al	:	
Application No. 10/733,416	:	DECISION GRANTING PETITION
Filed: December 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 056207.53080US	:	

This is a decision on the petition, filed March 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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ROYLANCE ABRAMS BERDO & GOODMAN
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Gholam A. Peyman	:	DECISION ON PETITION
Application No. 10/733,441	:	TO MAKE SPECIAL
Filed: December 12, 2003	:	37 CFR 1.102(c)
Attorney Docket No. 460-16	:	

This is a decision on the petition under 37 CFR §1.102(c), filed July 18, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The instant petition includes a declaration by Gholam A. Peyman attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3731 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of
Daniel Maddux
Application No. 10/733,442
Filed: December 12, 2003
Attorney Docket No.: 244950US-8

DECISION GRANTED-IN-PART ON PETITION

This is a decision on the petition filed May 19, 2004, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed March 19, 2004, be withdrawn.

The application was filed on December 12, 2003. However, on March 19, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of December 12, 2003 but figure 13 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figure 13 was filed on December 12, 2003. In support, the petition is accompanied by a copy of applicant's return postcard which lists "drawings 16 sheets". The petition is further accompanied by a copy of figure 13.

Applicant's postcard receipt is prima facie evidence that 16 sheets of drawings including figure 13 as described in the specification were received on December 12, 2003, but figure 13 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figure 13 was received on December 12, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted figure. The Notice was correct regarding the oath or declaration. The petition fee of $130.00 is being credited to deposit account 15-0030.

Since figure 13 as described in the specification cannot be located in the Office, figure 13 supplied on May 19, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 12, 2003, using the 15 sheets of drawings submitted on December 12, 2003 and substitute figure 13 supplied on May 19, 2004.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

SPE: ~~V. Chin~~ S. Tran

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/07

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/733,451 Patent No.: 7149320

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: Correction of title meets criteria of 35 USC 255. Remaining corrections are for typographical errors in the published patent and are consistent with the record in the application file.

[signature] 2615

SPE **Art Unit**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,459	12/10/2003	Dan Teodosiu	14917.0456USU1	8789

27488 7590 12/10/2007
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
LY, CHEYNE D

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
12/10/2007	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.

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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Dan Teodosiu et al
Appl. No.: 10/733,459
Filed: December 10, 2003
For: GRANULAR CONTROL OVER THE AUTHORITY OF REPLICATED INFORMATION VIA FENCING AND UNFENCING

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 November 2007, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 14 November 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

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

During prosecution on the merits, the examiner will determine whether or not the information submitted on 14 November 2007 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

It is noted that the instant application has been published on January 20, 2005. Thus, the identified information submitted on November 14, 2007 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

The identified information is currently not available for public view as of December 5, 2207.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,459	12/10/2003	Dan Teodosiu	14917.0456USU1	8789

27488 7590 11/20/2009
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
LY, CHEYNE D

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
11/20/2009	PAPER

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

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

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Rene A. Pereyra
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Dan TEODOSIU et al.
Appl. No.: 10/733,459
Filed: December 10, 2003
For: GRANULAR CONTROL OVER THE AUTHORITY OF REPLICATED INFORMATION VIA FENCING AND UNFENCING

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the renewed petition under 37 CFR 1.59(b), filed on 09 November 2009 to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the documents submitted on 14 November 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR 1.17(g) has been previously paid.

Applicant is required to retain the expunged documents for the life of any patent, which issues on the above-identified application.

The expunged documents have been removed from the official file and will not be returned to the applicant. The petitions and support documents have been closed from public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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745 FIFTH AVENUE-10TH FL.
NEW YORK, NY 10151

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In re Application of	:	
Koji Shima	:	
Application No. 10/733,460	:	DECISION ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 450137-04920	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 31, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 1, 2008. A Notice of Abandonment was mailed July 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2146 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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LEIGHTON K. CHONG
GODBEY GRIFFITHS REISS & CHONG
1001 BISHOP STREET, PAUAHI TOWER SUITE 2300
HONOLULU, HI 96813

In re Application of
KUZUU, MASAYUKI
Appl No.: 10/733,475
Filed: December 10, 2003
For: NAIL CLIPPER FOR PETS WITH CURVED CUTTING EDGES
Attorney Docket Number: MA-KUZ-P4

DECISION VACATING OFFICE ACTION

This application is before the Director of Technology Center 3700. A review of the prosecution history indicates that a Notice of Allowance and Fee(s) Due was mailed to the correspondence address of record on May 3, 2005. There is no record in the file history that the issue fee was timely submitted within the three-month statutory period set forth in the Notice of Allowance and Fee(s) Due. Therefore, the application is abandoned by statute for failure to timely pay the issue fee.

The PALM records indicate that a "corrected notice of allowance" was generated on December 8, 2005. This decision vacates the "corrected notice of allowance" of December 8, 2005 *sua sponte* under 37 CFR 1.181.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No 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." Alternatively, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137. The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.

Frederick R. Schmidt, Director
Technology Center 3700

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AUG -8 2006

LEIGHTON K. CHONG
GODBEY GRIFFITHS REISS & CHONG
1001 BISHOP STREET, PAUAHI TOWER SUITE 2300
HONOLULU HI 96813

In re Application of: Kuzuu, Masayuki Serial No.: 10/733,475 Filed: December 10, 2001 Docket: MA-KUZ-P4 Title: NAIL CLIPPER FOR PETS WITH CURVED CUTTING EDGES	DECISION ON REQUEST FOR RECONSIDERATION OF DECISION VACATING OFFICE ACTION

This is a decision on the petition filed February 9, 2006 to request reconsideration of the January 30, 2006 decision vacating a corrected Notice of Allowance.

The petition is **dismissed**.

In his February 9, 2006 the applicant requested the reconsideration the January 30, 2006 decision vacating the corrected Notice of Allowance generated on December 8, 2005. In support of his petition, the applicant argues that the USPTO PAIR system malfunctioned which created an incorrect correspondence address that caused the May 3, 2005 Notice of Allowance to be mailed to the incorrect address.

The record shows that:

1) Around April 1, 2005 the applicant changed his address in the USPTO Private PAIR system. Petitioner alleges he changed from his old address at his former firm to a new address at his new firm. The old address was: Ostrager Chong Flaherty & Broitman, 841 Bishop Street, Suite 1200, Honolulu, HI 96813. The new address is: GODBEY GRIFFITHS REISS & CHONG, 1001 Bishop St., Pauahi Tower Suite 2300, Honolulu, HI 96813.
2) On May 3, 2005 the examiner issued a notice of allowance, which was addressed to: GODBEY GRIFFITHS REISS & CHONG, 841 Bishop Street, Suite 1200, Honolulu, HI 96813.
3) Around April 2005 to early May 2005, the applicant learned of the incorrect address and changed the address in the PAIR system to the new address as above.

4) On August 2, 2005 the applicant allegedly spoke to a member of the USPTO who stated a corrected notice of allowance would be issued. It should be noted there is no record of a telephone interview within the USPTO database.
5) On December 8, 2005 PALM records indicated that a "corrected notice of allowance" was generated.
6) On January 30, 2006 the Office issued a decision vacating the December 8, 2005 "corrected notice of allowance."
7) On February 9, 2006 the applicant filed the present petition. The applicant alleges that the USPTO PAIR system malfunctioned and created an incorrect correspondence address. This incorrect address resulted in the applicant never receiving the May 3, 2005 Notice of Allowance. Consequently, the applicant should receive a corrected Notice of Allowance due to the USPTO error with a reset period for response.

Analysis

The petitioner's argument is not persuasive. The petitioner has not provided corroborating evidence showing that the changes made within the PAIR system were correct. Moreover, the petitioner did not make any attempt to verify the correct address within the PAIR system. Finally, when petitioner learned in mid-May 2005 of misdirected mail in the attorney's cases, the petitioner had approximately two and half months to seek and review missed correspondence within the PAIR system, request an additional copy of the Notice of Allowance and pay the Notice of Allowance fee before the issue fee date August 3, 2005.

Accordingly, the petition is dismissed. The application remains abandoned.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1. 136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Alternatively, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137. The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young
for Frederick R. Schmidt, Director
Technology Center 3700

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Commissioner for Patents
United States Patent and Trademark Office
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SEP 27 2006

LEIGHTON K. CHONG
GODBEY GRIFFITHS REISS & CHONG
1001 BISHOP STREET, PAUAHI TOWER SUITE 2300
HONOLULU HI 96813

In re Application of: Kuzuu, Masayuki Serial No.: 10/733,475 Filed: December 10, 2001 Docket: MA-KUZ-P4 Title: NAIL CLIPPER FOR PETS WITH CURVED CUTTING EDGES	DECISION ON RENEWED PETITION UNDER 37 CFR 1.181F

This is a decision on the renewed petition filed Aug. 29, 2006 to request reconsideration of the Decision on Request for Reconsideration of Decision Vacating Office Action.

The petition is **GRANTED**.

In his Aug. 29, 2006 Renewed Petition, the petitioner requested the reconsideration the Decision mailed on Aug. 8, 2006 and request issuance of a new Notice of Allowance. In support of his renewed petition, the petitioner argues that the entry of the address data in the USPTO PAIR system was correctly recorded as shown by the attached computer print out dated May 9, 2005. For some unexplained reason, the PTO did not physically enter the address change correctly. The applicant has submitted a sufficient affidavit to set forth all the surrounding facts in details.

Under the circumstances and facts supported by the records and presented by the petitioner, this petition is granted. A new notice of Allowance will be issued in due course. The holding of abandonment is vacated.

Accordingly, the petition is granted.

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

Frederick R. Schmidt, Director
Technology Center 3700

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of	:	
Peter M. Olofson, et al.	:	
Application No. 10/733,479	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 58678US002	:	

This is a decision on the petition, filed April 11, 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 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.

The application is being referred to Technology Center AU 2851 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 12 2005

OFFICE OF PETITIONS

Date : April 12, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Peter M. Olofson, et al
Application No. : 10/733,479
Filed : December 11, 2003

The above-identified application has been assigned Patent No. 6,882,472 and an issue date of April 19, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 19, 2005:

> "All reference to Patent No. 6,882,472 to PETER M. OLOFSON, ET AL of MINNESOTA for COMPOSITION FOR MICROSTRUCTURED SCREENS appearing in the Official Gazette of April 19, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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MARK S. NOWOTARSKI
30 GLEN TERRACE
STAMFORD CT 06906

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of :
Groz :
Application No. 10/733,483 :
Filed: December 11, 2003 :
Attorney Dkt. No. MG112504USNP :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a final Office action mailed August 4, 2009. The Office Action set a three (3) month shortened statutory period for reply. An untimely three month extension of time was requested under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 5, 2009 This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on February 5, 2010 was subsequent to the maximum extendable period for reply. The fee will be refunded.

It should be very carefully noted that neither the primary examiner nor the Director of the USPTO has authority to extend the shortened statutory period unless a petition for the extension is filed. While the shortened period may be extended within the limits of the statutory 6 months period, no extension can operate to extend the time beyond the 6 months. Further, 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).

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuation in part application No. 12/701,373.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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Davidson, Davidson & Kappel, LLC
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14th Floor
New York, NY 10018

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AUG 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Niessen	:	
Application No. 10/733,486	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 588.1005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2008, to revive the above-identified application.

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 with the $510 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 Technology Center Art Unit 3683 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Yaron Ilan, et. al.	:	
Application No. 10/733,488	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 59046.000044	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 19, 2004 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) was obtained. Accordingly, the application became abandoned after midnight June 19, 2004.

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 $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 1648.

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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SUITE 1200
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OFFICE OF PETITIONS

In re Application of	:	
Yaron Ilan, et. al.	:	
Application No. 10/733,489	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 59046.000042	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 19, 2004 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) was obtained. Accordingly, the application became abandoned after midnight June 19, 2004.

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 $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center Art Unit 1648.

Andrea Smith
Petitions Examiner
Office of Petitions

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NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO ND 58103

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APR 19 2007

OFFICE OF PETITIONS

In re Application of	:
Suess	: DECISION ON PETITION
Application No. 10/733,525	:
Filed: December 9, 2003	:
Atty. Dkt. No.: SUES-002	:

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 6, 2007.

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 March 29, 2005 for failure to timely submit a proper reply to the final Office action mailed December 28, 2004. The final Office action set a three month period of time for reply. Notice of Abandonment was mailed July 7, 2005.

Petitioner alleges non-receipt of the final Office action mailed December 28, 2004.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to petitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from petitioner stating that the Office communication was not received by petitioner 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 petitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Petitioner has failed to provide any supporting documentation to support the contention of non-receipt of the final Office action.

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

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FARGO ND 58103

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:
Suess	: DECISION ON PETITION
Application No. 10/733,525	:
Filed: December 9, 2003	:
Atty. Dkt. No.: SUES-002	:

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 6, 2007. This decision corrects the decision mailed April 19, 2007.

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

This application was held abandoned March 29, 2005 for failure to timely submit a proper reply to the final Office action mailed December 28, 2004. The final Office action set a three month period of time for reply. Notice of Abandonment was mailed July 7, 2005.

Petitioner alleges non-receipt of the final Office action mailed December 28, 2004.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to petitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from petitioner stating that the Office communication was not received by petitioner 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 petitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the

Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Upon further review of the arguments and supporting documentation presented by petitioner, the conclusion is drawn that the final Office was not received by applicant.

In view thereof he Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

SUESS, John F. Jr.
Application No. 10/733,525
Filed: December 9, 2003
Attorney Docket No. **SUES-002**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2007.

The request is **APPROVED**.

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

The request was signed by Michael S. Neustel, the sole attorney of record. Michael S. Neustel has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor John F. Suess, Jr. at the address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the final office action mailed March 22, 2007.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOHN F. SUESS, JR.**
P.O. BOX 210
WOODLAWN, VA 24381

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JAN 13 2006

TECHNOLOGY CENTER 3600

Darin E. Bartholomew
Patent Department
Deere & Company
One John Deere Place
Moline, IL 61265

In re Application of
Hans Kappelhoff
Application No. 10/733,548
Filed: December 11, 2003

DECISION ON PETITION TO WITHDRAW ABANDONMENT

For: GATHERING AND PICKING DEVICE

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 July 11, 2005.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed July 26, 2004 which set a three month shortened statutory period. No response was received and a Notice of Abandonment was sent on March 25, 2005.

Petitioner contends that a response was filed on October 26, 2004. In support thereof, petitioner submits, a copy of a response bearing a Certificate of Transmission signed by A. Nicholas Trausch and dated October 26, 2004.

Petitioner's evidence of a timely filing based on a Certificate of Transmission is considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date

indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate, in this instance A. Nicholas Trausch. The statement made by Darin E. Bartholomew attesting to the timely mailing has been noted, however, absent any extenuating circumstances, this statement must be made by the person who signed the certificate.

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."

for

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/js: 9/20/05

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Paper No.

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

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AUG 24 2006
OFFICE OF PETITIONS

In re Application of :
Hans Kappelhoff :
Application No. 10/733,548 : DECISION ON PETITION
Filed: December 11, 2003 :
Attorney Docket No. 09209-US :

This is in response to the Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181 filed March 3, 2006.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed July 26, 2004. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension of time obtained, the application became abandoned on October 27, 2004. By decision mailed January 13, 2006, the initial petition to withdraw holding of abandonment filed July 11, 2005 was dismissed. A courtesy Notice of Abandonment was then mailed on February 15, 2006.

On instant renewed petition, applicants provided the element found lacking in the initial petition, a statement by the person who signed the certificate of mailing.

In addition, applicants noted that the amendment as timely filed used the incorrect serial number. Given this additional information, a review of the petition and of the record of the misidentified application confirms that the response as petitioner maintains it was filed on October 26, 2004 was, in fact, filed with the wrong application number. Further investigation reveals that the response with a date of receipt of October 26, 2004 was entered in the misidentified

application. This has been corrected. The response filed October 26, 2004, has been "moved" from the electronic record of the incorrectly identified application to the record of the instant application. Moreover, the response is considered timely filed.

Accordingly, the Notice of Abandonment mailed February 15, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3671 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff for withdrawal of the holding of abandonment, and for consideration by the examiner of the response timely filed October 26, 2004.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

10/2/07

In re Application of
Aarnio, Michael J., et al.
Serial No.: 10/733,556
Filed: Dec. 11, 2003
Docket: EH-10966 (03-436)
Title: DETONATIVE CLEANING APPARATUS

DECISION ON PETITION
TO WITHDRAW FINALITY
OF REJECTION UNDER
37 CFR 1.181

This is a decision on the petition filed on Aug. 20, 2007 by which petitioner requests withdrawal of the finality of the Office Action dated Jul. 18, 2007. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted in part.

A review of the relevant prosecution history shows that the applicant filed the original claims on Dec. 11, 2003. On Feb. 12, 2007, the examiner rejected claims 1-4, and 6 under 35 U.S.C. 102 and claims 5, 8 and 9 under 35 U.S.C. 103 as unpatentable over the U.S. Pat. to Hunter. In response to the non-final Office action, on May 14, 2007 the applicant filed an amendment to claims 1, 2, 3, 5 and added new claims 10-12. In particular, the applicant cancelled the dependent claim 4 and essentially combined its limitations with the original claim 1. On Jul. 18, 2007, the examiner issued a final Office action and rejected claims 1-3, 5, 6, 10 and 11 under 35 U.S.C. 103 as unpatentable over Hunter (US Pat. 5,494,004) in view of DeMart (U.S. Pat. 2,668,978)[1]. In view of the totality of the paragraph 2 of page 4 of the final Office action, the examiner also appeared to separately reject claims 8, 9 and 12 under 35 U.S.C. 103 as unpatentable over Hunter in view of DeMart (U.S. Pat. 2,668,978). On Aug. 20, 2007, the applicant filed the current petition requesting withdrawal of the finality of the previous Office action. The petitioner is of the opinion that the final Office Action is incomplete because it is incongruous that, although independent claim 1 is rejected as unpatentable over Hunter, Jr. in view of DeMart, its dependent claims are not rejected in a consistent fashion. For example, dependent claims 8, 9, and 12 were rejected based solely upon Hunter, Jr. Therefore, petitioner now requests a clearer action. Petitioner also requests withdrawal of the finality of the last Office action because a new ground of rejection has been applied which was not previously applied to claim 4.

[1] Newly cited references added in the Final rejection of claims 1-3, 5, 6, 10 and 11.

Analysis of Application Record

Petitioner requests withdrawal of finality of the Office action mailed Jul. 18, 2007. The issue in the current petition is whether rewritten, independent claim 1 changed the scope of original dependent claim 4 in combination with original claim 1. If so, the new ground of rejection in the final Office action was necessitated by applicant's amendment.

In order to determine whether or not the original dependent claim 4 and the rewritten, amended independent claim 1 are identical in scope, a comparison of the claims must be made. Original independent claim 1 and original dependent claim 4 filed on Dec. 11, 2003 are reproduced below:

1. An apparatus for cleaning a surface within a vessel, the apparatus supported at least partially above a support surface and comprising: an elongate combustion conduit extending from an upstream end to a downstream end associated with an aperture in a wall of the vessel and positioned to direct a shock wave toward said surface; a guide member on the support surface; and a plurality of support assemblies supporting the combustion conduit at a plurality of locations along a length of the combustion conduit and engaging the at least one guide member.

4. The apparatus of claim 3 wherein: each support assembly comprises a trolley having first and second of the at least one pair of said at least one wheel.

The newly amended independent claim 1 as filed on May 14, 2007 is also reproduced below:

1. (Currently amended) An apparatus for cleaning a surface within a vessel, the apparatus supported at least partially above a support surface and comprising: an elongate combustion conduit extending from an upstream end to a downstream end associated with an aperture in a wall of the vessel and positioned to direct a shock wave toward said surface; a guide member on the support surface; and a plurality of support assemblies supporting the combustion conduit at a plurality of locations along a length of the combustion conduit and engaging the at least one guide member, <u>each support assembly comprising a trolley having first and second pairs of wheels.</u>

4. (Canceled).

It should be noted that original dependent claim 4 depended upon claims 3, 2 and 1. A comparison of the new independent claim 1 and the original dependent claim 4 reveals that the new independent claim 1 contains no limitations from the original dependent claims 2 and 3. Petitioner has incorrectly stated that the amendment filed on May 14, 2007 incorporated dependent claim 4 into claim 1. The newly amended independent claim 1 indeed changes the scope of the original dependent claim 4 because the limitations in original dependent claims 2 and 3 are omitted. In view of the newly added limitations in claim 1, the examiner needed to search and found U.S. patent to DeMart (US Pat. 2,668,97) for the rejection of amended claims 1-3, 5, 6, 10 and 11. These added limitations to claim 1 in the amendment filed on May 14, 2007 necessitated the new grounds of rejection in accordance with M.P.E.P. 706.07(a)[2] mailed on Jul. 18, 2007.

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[2] MPEP 706.07(a) states in relevant part: "Under present practice, second or any subsequent actions on the merits shall be final, *except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims* nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." (*Emphasis added*).

With regard to the rejection as stated in paragraph 2 of the final Office action, there appears to be a typographical error on line 2 of paragraph 2 of the final Office action. The phrase "in view of DeMart 2,669,978" was missing after the patentee "Hunter". This typographical error is regretted. The examiner is now directed to send a supplemental final Office action to correct such error. The requested relief as to a clearer Office action is granted.

Conclusion

Based on the analysis of the record, the examiner was correct in finding that the amended independent claim 1 differs in scope from original dependent claim 4. Accordingly, the change in scope of newly amended claim 1 was necessitated by applicant's amendment of May 14, 2007 and resulted in the new ground of rejection in the final Office action of Jul. 18, 2007. The requested relief to withdraw the finality of Office action of Jul. 18, 2007 cannot be granted. The requested relief as to a clearer Office action is granted.

The application was forwarded to Examiner Ndubizu via Supervisory Patent Examiner of Art Unit 3749 for preparation of a supplemental Office action which was mailed on Aug. 3, 2007. Petitioner may file a request for reconsideration of this decision, without fee. However, such a request must be filed within two months of the date of this decision. See 37 CFR 1.181. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED IN PART.

for Karen M. Young

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 22 2004

DCM

In re Application of Donald M. Stromquist Serial Number: 10/733,557 Filed: December 11, 2003 For: METHOD AND APPARATUS FOR INCREASING THE CAPACITY OF ION EXCHANGE RESINS	:	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed December 11, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

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

Accordingly the petition is **GRANTED.**

Marian C Knode

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

MALLINCKRODT & MALLINCKRODT
10 EXCHANGE PLACE, SUITE 510
SALT LAKE CITY UT 84111

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Lowrie, Lando & Anastasi, LLP
One Main Street, Suite 1100
Cambridge, MA 02142

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of :
Theresa O'Keefe et al. :
Application No. 10/733,563 : ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. M2051-701210 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 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 final Office action mailed, January 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2008. A Notice of Abandonment was mailed on August 15, 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 Notice of Appeal, with the required fee of $510, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal is accepted as being unintentionally delayed.

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.

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 $1,050 extension of time fee submitted with the petition on September 23, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1643 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of
James R. Keene
Application No. 10/733,595
Filed: December 11, 2003
Attorney Docket No: KBLD.P0105US

ON PETITION

This is a decision on the petition filed August 19, 2009 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 10, 2007. 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 July 11, 2007. Accordingly, a Notice of Abandonment was mailed January 4, 2008.

This matter is being referred to Technology Center 3635 for appropriate action on the amendment filed August 19, 2009.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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ULMER & BERNE LLP
ATTN: DIANE BELL
600 VINE STREET
SUITE 2800
CINCINNATI, OH 45202

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Sherwin	:	
Application No. 10/733,596	:	DECISION ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. CLFXP0247US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 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 October 10, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 10, 2007. Accordingly, the date of abandonment of this application is October 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: GORDON D. KINDER
ULMER & BERNE, LLP
1660 WEST 2ND STREET
SUITE 1100
CLEVELAND, OH 44113-1448

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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
10/733,601	12/11/2003	2188	770	10001361-2	21	17	3

CONFIRMATION NO. 8202

CORRECTED FILING RECEIPT

OC000000012409328

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

Date Mailed: 04/30/2004

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

Applicant(s)

Robert A. Cochran, Rocklin, CA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/895,474 06/28/2001 PAT 6,718,447

Foreign Applications

If Required, Foreign Filing License Granted: 03/18/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for providing logically consistent logical unit backup snapshots within one or more data storage devices

Preliminary Class

711

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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WARE FRESSOLA VAN DER SLUYS
& ADOLPHSON LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET
P O BOX 224
MONROE, CT 06468

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OFFICE OF PETITIONS

In re Application of	:
Francisco Rojo Lulic	:
Application No. 10/733,602	: DECISION ON PETITION
Filed: December 11, 2003	: UNDER 37 CFR 1.313(a)
Attorney Docket No. 870-003-166	:

This is a decision on the petition under 37 CFR 1.313(a), filed October 11, 2005, to withdraw the above-identified application from issue or, alternatively, to request continued examination in accordance with 37 CFR 1.114.

The petition under 37 CFR 1.313(a) is **DISMISSED** as moot for the reasons stated below.

The request for continued examination is **GRANTED**.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed on July 12, 2005. Accordingly, the issue and publication fees were due on or before October 12, 2005 to avoid the abandonment of the application. The issue fee has not to date been received.

Petitioner requests that the present application be withdrawn from issue because "assignee of the present application does not find the examiner's amendment to claim 9 acceptable." Alternatively, petitioner requests continued examination in accordance with 37 CFR 1.114 and authorizes the fee to be charged to his deposit account.

MPEP, Section 706.07(h), states:

> If a submission is accompanied by a "conditional" RCE and payment of the RCE fee under 37 CFR 1.17(e) (*i.e.*, an authorization to charge the 37 CFR 1.17(e) fee to a deposit account in the event that the submission would not otherwise be entered), the Office will treat the "conditional" RCE and payment

> as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed.

MPEP, Section 706.07(h), under "After Allowance or Quayle Action," states, in part:

> * * * if an applicant files an RCE with the fee set forth in 37 CFR 1.17(e) and a submission in an application which has been allowed, prosecution will be reopened. If the issue fee has been paid, however, payment of the fee for an RCE and a submission without a petition under 37 CFR 1.313 to withdraw the application from issue will not avoid issuance of the application as a patent. ***If an RCE (with the fee and a submission) is filed in an allowed application prior to payment of the issue fee, a petition under 37 CFR 1.313 to withdraw the application from issue is not required*** [emphasis added].

Therefore, the Office will treat the "Contingent Request for R.C.E." embodied in the petition as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed. Further, the submission requirement is met by the arguments against the examiner's amendment to claim 9.[1] As authorized, the $790 RCE fee will be charged to petitioner's deposit account.

In view of the above, the submission of a petition to withdraw from issue under 37 CFR 1.313(a) is unnecessary and is dismissed as involving a moot issue.

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

This matter is being referred to Technology Center AU 2834 for processing the RCE and consideration of the submission, both of which are embodied in the petition under 37 CFR 1.313(a).

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] Petitioner should, in the future, comply with the provisions of 37 CFR 1.4(c), which states: "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

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Larry G. Brown
Motorola, Inc.
Law Department - MD 1610
8000 W. Sunrise Blvd.
Plantation, FL 33322

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AUG 2 5 2008

In re Application of
Levy, et al.
Application No. 10/733,616
Filed: No. December 11, 2003
Attorney Docket No. CE11336JI212
For: METHOD AND SYSTEM FOR PROVIDING INFORMATION ABOUT A COMMUNICATIONS DEVICE

: DECISION ON PETITION

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed June 3, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

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

This application became abandoned for failure to timely submit the issue fee and the publication fee in response to the Notice of Allowance and Fee(s) Due, mailed August 24, 2007, which set a non-extendable three month period for reply. The application became abandoned on November 25, 2007. A Notice of Abandonment was mailed on December 19, 2007.

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

The instant petition lacks item (3).

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

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

A Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed on August 24, 2007. A Supplemental Notice of Allowability was mailed on November 14, 2007. Petitioners argue that the abandonment was unavoidable because applicants were under the impression that the issue fee was due three months from the mailing of the Supplemental Notice of Allowability, mailed November 14, 2007.

Petitioners are informed that the November 14, 2007 Supplemental Notice of Allowability did not re-set the period for submission of the issue fee and publication fee. As stated in the November 14, 2007 Supplemental Notice of Allowability, " ... If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course." The Notice of Allowance and Fee(s) Due was mailed previously on August 24, 2007. The requirements set in August 24, 2007 Notice of Allowance and Fee(s) Due were never withdrawn. The application did become abandoned three months after August 24, 2007, on November 25, 2007.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

The petition under 37 CFR 1.137(a) is dismissed.

The undersigned suggests that petitioners file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Larry G. Brown
Motorola, Inc.
Law Department - MD 1610
8000 W. Sunrise Blvd.
Plantation, FL 33322

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In re Application of
Levy, et al.
Application No. 10/733,616
Filed: No. December 11, 2003
Attorney Docket No. CE11336JI212
For: METHOD AND SYSTEM FOR PROVIDING INFORMATION ABOUT A COMMUNICATIONS DEVICE

: DECISION ON PETITION

This is a decision on the petition under the unintentional standard of 37 CFR 1.137(b), filed September 17, 2008, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit the issue fee and the publication fee in response to the Notice of Allowance and Fee(s) Due, mailed August 24, 2007, which set a non-extendable three month period for reply. The application became abandoned on November 25, 2007. A Notice of Abandonment was mailed on December 19, 2007.

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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MAY 27 2005
OFFICE OF PETITIONS

Applicant: Ebner et al.
Appl. No.: 10/733,646
Filing Date: December 12, 2003
Title: HUMAN EPENDYMIN
Attorney Docket No.: PF403D2
Pub. No.: US 2004/0122215 A1
Pub. Date: June 24, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 10, 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

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VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	DECISION REFUSING STATUS
Application No.10/733,647	:	UNDER 37 CFR 1.47(a)
Filed: December 12, 2003	:	
Attorney Docket No. 29953-187825	:	
Title of Invention: Blow Cylinder with Fluid	:	
Cushion	:	

This is in response to the petition filed May 18, 2004, under 37 C.F.R. §1.47(a).

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 "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 12, 2003, without a signed oath or declaration. Accordingly, on March 19, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed requiring, for the purposes of this decision, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on May 18, 2004, the instant petition and accompanying fee, an executed declaration and $130.00 surcharge fee were received.

A grantable petition under 37 C.F.R. §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 the non-signing inventor can not be reached. Rule 47 applicant states because inventor Miller has been called up to active duty in the Army Reserves on December 7, 2003 he cannot be reached by telephone or mail for

lengthy periods of time. However petitioner has failed to provide any evidence that "diligent effort" was made to contact inventor Miller or his legal representative. Instead petitioner has merely concluded that inventor Miller is not available. It is well established that people serving in the armed forces receive mail. Yet petitioner has not indicated that a copy of the application papers (specification, including claims, drawings, and oath or declaration) was presented to inventor Miller either at his home address or his temporary mailing address. Inventor Miller may have appointed a legal representative to handle any legal affairs while he is on active duty.

Thus rule 47 applicant has failed to provide sufficient evidence to establish inventor Miller is unavailable within the meaning of 37 CFR 1.47. Rule 47 applicant should make diligent effort to contact inventor Miller and have him execute the declaration. If inventor Miller cannot be reached, rule 47 applicant should provide documentary evidence that would support a finding that the non-signing inventor is unavailable.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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MAR 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	DECISION
Application No.10/733,647	:	
Filed: December 12, 2003	:	
Attorney Docket No. 29953-187825	:	
Title of Invention: Blow Cylinder with Fluid	:	
Cushion	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 18, 2004.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **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 application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Michael Anthony Alagna	: DECISION ON REQUEST FOR
Patent Number	: 7624110	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,655	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1173** 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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- ENROUTE, December 11, 2003, 7:10 pm, DETROIT, MI 48242
- ACCEPTANCE, December 11, 2003, 4:27 pm, ROCHESTER, MI 48307

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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
10/733,662	12/11/2003	3636	770	706608US1	2	17	1

CONFIRMATION NO. 8860

CORRECTED FILING RECEIPT

OC000000012580816

Marc J Luddy
DaimlerChrysler Intellectual Capital Corporation
CIMS 483-02-19
800 Chrysler Drive
Auburn Hills, MI 48326-2757

Date Mailed: 05/10/2004

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

Applicant(s)

Thomas Curran, Macomb, MI;
Lawrence Jasinski II, Clarkston, MI;
Timothy W. Anness, Rochester Hills, MI;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/18/2004

Projected Publication Date: 06/16/2005

Non-Publication Request: No

Early Publication Request: No

Title

Stowable seat mounted display screen

Preliminary Class

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

GRANTED

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

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

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

NOT GRANTED

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

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ALVIN J. RIDDLES
CANDLEWOOD ISLE
BOX 34
NEW FAIRFIELD, CT 06812

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Lawrence Shungwei Mok et al	:	
Application No. 10/733,672	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. YOR920030186US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 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 File Corrected Application Papers (Notice) mailed March 22, 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 May 23, 2004.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BUCKLEY, MASCHOFF, TALWALKAR LLC
5 ELM STREET
NEW CANAAN, CT 06840

In re Application of Tyagarajan et al. :
Application No. 10/733,677 : Decision on Petition
Filing Date: December 11, 2003 :
Attorney Docket No. G15.001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 18, 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 January 19, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2614 will be informed of the instant decision and the application, including the reply filed May 22, 2006, 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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Alexandria, VA 22313-1450
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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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NOV 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Yaron Ilan, et. al.	:	
Application No. 10/733,686	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 59046.000043	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2005, 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 October 6, 2004 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) was obtained. Accordingly, the application became abandoned after midnight November 6, 2004.

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 $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 1648.

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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1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Yaron Ilan, e al.	:	
Application No. 10/733,686	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. 59046.000043	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 26, 2008. The Notice of Abandonment was mailed January 30, 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 $1,620; 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 document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1648 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Kellie L. Carden**
The Webb Firm
700 Koppers Building
436 Seventh Ave.
Pittsburgh, PA 15219

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Paper No.

U.S. Army Medical Research
and Materiel Command
504 Scott Street
Fort Detrick, MD 21702-5012

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Nikolich et al. :
Application No. 10/733,691 : DECISION ON PETITION
Filed: December 11, 2003 :
Attorney Docket No. Army176 :

This is a decision on the "PETITION FOR ACCEPTANCE OF CERTAIN PAGES OF APPLICATION SAID TO BE OMITTED, AND PETITION FOR RETENTION OF DECEMBER 11, 2003 FILING DATE FOR THESE PAGES," filed April 19, 2004, to accord the above-identified application a filing date of December 11, 2003, with pages 29-35 of the specification as part of the original application disclosure. This petition is properly treated under § 1.53(e)(2)[1].

Application papers in the above-identified application were filed on December 11, 2003. However, on April 5, 2004, the Initial Patent Examination Division mailed applicants a "Notice to File Corrected Application Papers." Applicants were notified that the application papers had been accorded a filing date; however, pages 29-35 of the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition. Petitioners assert that pages 29-35 of the specification were included with the application when filed. In support thereof, petitioners submit a copy of the back side of their return postcard receipt.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of

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[1] § 1.53(e) Failure to meet filing date requirements.
... (2) Any request for review of ... a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(h). In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Petitioners have submitted one side of their return postcard itemizing the items filed on December 11, 2003.

However, a review of the application papers already considered received in the Office on December 11, 2003, reveals that on page 36 of the specification, the Office stamped "The PTO did not receive the following listed item(s) pgs. 29-35 claims." In view thereof, it is requested that petitioner supply both sides of their return postcard.

The petition is **DISMISSED** without prejudice to reconsideration upon the submission of the front side of the postcard.

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW[2]
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[2] Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows:

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

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United States Patent and Trademark Office
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Paper No.

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504 Scott Street
Fort Detrick, MD 21702-5012

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OFFICE OF PETITIONS

In re Application of Nikolich et al. Application No. 10/733,691 Filed: December 11, 2003 Attorney Docket No. Army176	DECISION ON PETITION

This is a decision on the "SUBMISSION OF REQUESTED POSTCARD RECEIPT AND PETITION FOR ACCEPTANCE OF CERTAIN PAGES OF APPLICATION SAID TO BE OMITTED, AND PETITION FOR RETENTION OF DECEMBER 11, 2003 FILING DATE FOR THESE PAGES," filed June 21, 2004, to accord the above-identified application a filing date of December 11, 2003, with pages 29-35 of the specification as part of the original application disclosure.

A prior petition was filed on April 19, 2004. This submission responds to the decision mailed June 1, 2004, requesting both sides of petitioner's return postcard.

Application papers in the above-identified application were filed on December 11, 2003. However, on April 5, 2004, the Initial Patent Examination Division mailed applicants a "Notice to File Corrected Application Papers." Applicants were notified that the application papers had been accorded a filing date; however, pages 29-35 of the specification appeared to have been omitted from the application.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the front and back of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the PTO on December 11, 2003, and the items filed therewith were assigned Application No. 10/733,691; 2) it specifically identifies the items being filed, including "U.S. Utility Application (58 pages, including 10 sheets of figures" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard.

Moreover, a comparison of the papers presently accorded a filing date of December 11, 2003 and pages 29-35 of the specification

submitted on petition reveals that these papers together constitute the 58 pages, including 10 sheets of figures itemized on the postcard receipt. Thus, applicants have shown that the application is entitled to a filing date of December 11, 2003, with pages 29-35 of the specification as part of the original application disclosure.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 21-0380.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

> reprocessing with a filing date of December 11, 2003, using the application papers received in the Office on that date and pages 29-35 of the specification resubmitted on petition filed April 19, 2004.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FROM DIRECTORS OFFICE
DEC 28 2004
TECHNOLOGY CENTER 3600

Charles J. Rupnick
P.O. Box 46752
Seattle, WA 98146

In re application of
Jeffrey D. Carnevali
Application No. 10/733,691
Filed: December 7, 2000
For: UNIVERSALLY POSITIONABLE MOUNTING DEVICE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R §1.102(d) filed November 8, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed November 8, 2004 lacks requirement 2(C) above. In this regard, petitioner states, "Applicant has previously provided one copy of each of the references deemed most closely related to the subject matter encompassed by the claims such that said references are already of record." However, the application file has been reviewed, and no copies provided by applicant, of the most closely related prior art, have been located. In view of this deficiency, the petition is **DISMISSED**.

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

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

SNM/rwg: 12/20/04

SPE: D. Bryant

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/5/06

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/733,704 Patent No.: 7047617

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: _____

2/12/07

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
SPE

3726
Art Unit

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JJGJr.: 05-05

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Mark K. Johnson
Mirus Corporation
505 S. Rosa Rd.
Madison WI 53719

In re Application of	:	
Hagstom, et al.	:	
Application No. 10/733,706	:	DECISION
Filed: 11 December, 2003	:	ON PETITION
Attorney Docket No.: Mirus.048.01	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 29 December 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §119(e) for the benefit of priority to prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §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 C.F.R.§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 37 C.F.R. §1.17(t);[1] 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 §1.78(a)(5)(ii) and the date the claim was filed was

[1] The scheduled fee is not $130.00. As of this writing, the scheduled fee is $1,370.00. However, Petitioner always should consult the Office website for the current fee schedule before submitting any materials on petition.

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

The petition fails to comply with items (1) and (2) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 C.F.R. §1.78(a)(2)(i) and under 37 C.F.R. §1.78(a)(5)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with under 37 C.F.R. §1.121, §1.52, or §1.4(c). Note that the regulations at 37 C.F.R. §1.121 state that an amendment is made by filing a paper, in compliance with §1.52, directing that a specified amendment be made. The pertinent section of 37 C.F.R. §1.52 states that the claim (in this case, that for priority), must commence on a separate physical sheet. The regulations at 37 C.F.R. §1.4(c) state that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the Office.

Accordingly, before the petition under 37 C.F.R. §1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) and either a proper amendment[2] or an ADS 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 FAX: (703) 872-9306
Attn: Office of Petitions

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

---

[2] *Note* 37 C.F.R. §1.121

Application No. 10/733,706

Inquiries concerning this decision may be directed to John Gillon, Senior Attorney, Office of Petitions at (571) 272-3214.

Frances Hicks
Petitions Examiner
Office of Petitions

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MARK K. JOHNSON
MIRUS CORPORATION
505 S. ROSA RD.
MADISON WI 53719

In re Application of	:	
Hagstom, et al.	:	
Application No. 10/733,706	:	DECISION
Filed: 11 December, 2003	:	ON PETITION
Attorney Docket No.: Mirus.048.01	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 22 June, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §119(e) for the benefit of priority to prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §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 C.F.R.§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 37 C.F.R. §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 §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.

Application No. 10/733,706

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

It appears that Petitioner has mis-identified as a 09/-series application the Application No. 08/975,571.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 C.F.R. §1.78(a)(2)(i) and under 37 C.F.R. §1.78(a)(5)(i).

Accordingly, the petition under 37 CFR 1.78(a)(3) is **dismissed**.

This matter is being referred to Technology Center AU 1633 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

MARK K. JOHNSON
MIRUS CORPORATION
505 S. ROSA RD.
MADISON WI 53719

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Hagstom, et al.	:	
Application No. 10/733,706	:	DECISION
Filed: 11 December, 2003	:	
Attorney Docket No.: Mirus.048.01	:	

This is a decision on the petition, filed on 19 March, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

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

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.)

Petitioner does not appear to have addressed the reply requirement(s) under the rule. These deficiencies must be overcome.

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to a final Office action mailed on 13 September, 2005, with reply due absent extension of time on or before 13 December, 2005.

On 29 December, 2005, Petitioner filed (with a request and fee for extension of time) an amendment after final, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance. It does not appear that the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 13 January, 2006.

However, it appears that a series of petitions pursuant to 37 C.F.R. §1.78 were filed and dismissed as Petitioner was unable to complete the delayed claim for priority.

The Office mailed the Notice of Abandonment on 27 March, 2008.

On 19 March, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with an amendment (also after final), but without a proper reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form an amendment.

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the reply requirement under the rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners 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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MIRUS CORPORATION
505 S. ROSA RD.
MADISON WI 53719

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Hagstom, et al.	:	
Application No. 10/733,706	:	DECISION
Filed: 11 December, 2003	:	ON PETITION
Attorney Docket No.: Mirus.048.01	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 18 April, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §119(e) for the benefit of priority to prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §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 C.F.R.§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 37 C.F.R. §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 §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

It appears that Petitioner has not demonstrated and/or otherwise properly stated pendency over the course of applications to which he refers in the amendment filed with the petition, to wit: the instant Application No. 10/733,706 (the '706 application) to:

- Application No. 10/628,734 (the '734 Application) to Application No. 09/447,966 (the '966 application)—furthermore, benefit has not been claimed to provisional Application No. 60/121,730 and 60/146,564 by the '966 application or by some other intervening application. (*See*: Manual of Patent examining Procedure (MPEP) §201.11(III)(c).); and

- Application No. 09/391,260 (the '260 application), to Application No. 08/975,573 (the '573 application), to Application No. 08/571,536 (the '536 application).

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 C.F.R. §1.78(a)(2)(i) and under 37 C.F.R. §1.78(a)(5)(i).

Accordingly, the petition under 37 CFR 1.78(a)(3) is **dismissed**.

This matter is being referred to Technology Center AU 1633 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon 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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JERRY H. NOH
SUITE 2741
3435 WILSHIRE BLVD
LOS ANGELES, CA 90010

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OFFICE OF PETITIONS

In re Application of	:	
Sung, Robbin	:	DECISION ON PETITION
Application No. 10/733,709	:	TO WITHDRAW
Filed: December 11, 2003	:	FROM RECORD
Attorney Docket No. A396-JN	:	

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 10, 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 Jerry H. Noh, the sole attorney of record.

Jerry H. Noh has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

David Bucci
Petitions Examiner
Office of Petitions

Cc: ROBBIN SUNG
1689 E. MISSION BLVD.
POMONA, CA 91766

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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

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OFFICE OF PETITIONS

In re Application of
Ben Eynon
Application No. 10/733,723
Filed: December 11, 2003
Attorney Docket No. 67493/64

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before September 10, 2007. A Notice of Abandonment was mailed on October 1, 2007. On October 12, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth L. Addy	:	
Application No. 10/733,727	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. H0006399 (17171)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2008, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Seth Weinfeld appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this decision is being mailed Mr. Weinfeld, all future correspondence will be directed solely to the address of record.

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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition does not comply with item 1. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See 711.03(c)(II)(A)(2). At present, the petition cannot be granted.

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

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

By Internet: EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SETH WEINFELD
SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA – STE. 300
GARDEN CITY, NY 11530

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kenneth L. Addy :
Application No. 10/733,727 :
Filed: December 11, 2003 :
Attorney Docket No. H0006399 (17171) :

This is a decision in response to the renewed petition, filed March 10, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

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

It is noted that an amendment was included with the petition filed on March 10, 2009. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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

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

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

By Internet: EFS-Web[3]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

[3] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/733,727	ADDY, KENNETH L.	
	Examiner	Art Unit	
	Nhon T. Diep	2621	

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

THE REPLY FILED 10 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: Proposed amendment to claims 1 (lines 5-6) and 11(lines 6-7) raise new issues that would require further consideration and/or search.

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P O BOX 2245
MORRISTOWN, NJ 07962-2245

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenneth L. Addy	:	
Application No. 10/733,727	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. H0006399 (17171)	:	

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

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 28, 2008. A Notice of Abandonment was mailed on September 2, 2008. On October 27, 2008, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed March 25, 2008. The petition was renewed on March 10, 2009, but was subsequently dismissed by a decision mailed May 13, 2009. In response, on May 27, 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) under 37 CFR 1.114, including the fee of $810; (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 2621 for processing of the RCE filed May 27, 2009 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

cc: PAUL M. VARGO
HUSCH BLACKWELL SANDERS
WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA, SUITE 2200
CHICAGO, IL 60606

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In re Application of	:	
Neil John Graham	:	
Application No. 10/733,728	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. 51,179	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed October 10, 2008.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment mailed March 20, 2008. This Notice set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on April 21, 2008. A Notice of Abandonment was mailed on September 12, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (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. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the March 20, 2008 Notice of Non-Compliant Amendment. Petitioner has failed to submit any supporting documentation to evidence non-receipt. To establish non receipt of an office action, a 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

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

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

application in question.[3]

Accordingly, on renewed petition, petitioner should submit a copy of a master docket report showing all replies docketed for a due date of April 20, 2008. If no such docket report exists, petitioner should so state for the record.

In addition, it is noted that the petition to revive and the reply to the Office action are contained on the same sheet of paper. Pursuant to 37 CFR 1.4(c), each should be contained in a separate paper.

Alternative Venue and Other Matters:

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

---

[3] MPEP 711.03(c)(II) (emphasis added).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEIL JOHN GRAHAM
6017 LIDO LANE
LONG BEACH CA 90803

COPY MAILED
JAN 12 2009

In re Application of	:	
Neil John Graham	:	
Application No. 10/733,728	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. 51,179	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 20, 2008.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment mailed March 20, 2008. This Notice set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on April 21, 2008. A Notice of Abandonment was mailed on September 12, 2008. Applicant filed a petition to revive under 37 CFR 1.137(a) on October 10, 2008. However, the petition was dismissed in a decision mailed on October 31, 2008.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of a response to the Notice of Non-Compliant Amendment.

The application is being forwarded to Group Art Unit 3732 for consideration of the reply, filed December 4, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Marius Ghercioiu	: DECISION ON REQUEST FOR
Patent Number	: 7647562	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,735	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1593** 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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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
10/733,741	12/10/2003	2878	770	FNL0202US	6	9	1

CONFIRMATION NO. 8392

CORRECTED FILING RECEIPT

OC000000012437254

25784
MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN, TX 78716-4140

Date Mailed: 04/23/2004

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

Applicant(s)

Thomas Koehler, Norderstedt, GERMANY;
Thomas Netsch, Hamburg, GERMANY;
Kerstin Stockmeier, Tubingen, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02080689.9 12/11/2002

If Required, Foreign Filing License Granted: 03/18/2004

Projected Publication Date: 06/24/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method for automatic alignment of tilt series in an electronic micropscope

Preliminary Class

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

12-31-08

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

Patent No. : 7,360,025 B1
Ser. No. : 10/733,742
Inventor(s) : Conleth O'Connell, et. al.
Issued : April 15, 2008
Title : METHOD AND SYSTEM FOR AUTOMATIC CACHE MANAGEMENT
Docket No. : Vigni640-2

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Spinkle IP Law Group
1301 W. 25th Street, Suite 408
Austin, Texas 78705

ej

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/20/2010

Applicant	: Harvey G. Kiel	: DECISION ON REQUEST FOR
Patent Number	: 7660322	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 30, 2007

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No. 10/733761 patent no. 7195026

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: _____

Eric Keasel — **SPE**

3753 — **Art Unit**

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE IL 60089

COPY MAILED

MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Kun-Hee Suh	:	
Application No. 10/733,770	:	
Filed: December 12, 2003	:	DECISION ON PETITION
Attorney Docket No. SUH 0019 US	:	UNDER 37 C.F.R. § 1.181(A)
Title: METHOD OF FORMING	:	
BUILDING MATERIALS MOSTLY	:	
CONSISTING OF MAGNESIUM OXIDE	:	

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on January 25, 2008.

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 26, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on September 27, 2007. A notice of abandonment was mailed on January 23, 2008.

With this petition, Petitioner has asserted that a response was timely filed on December 17, 2007 along with a three-month extension of time, however Petitioner placed the wrong serial number on these submissions - the Request for Continued Examination (RCE), the petition for an extension of time, and the amendment each bears the serial number 10/773,770. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

The electronic file has been reviewed, and a copy of this response has been located in the same. The RCE, the petition for an extension of time, and the amendment have been moved into the electronic file that is associated with this application. The relevant fees will be associated with the proper application in due course.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Power of Attorney and Correspondence Address Indication has been entered and made of record.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on December 17, 2007 - can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/733,770	12/12/2003	Kun-Hee Suh	7337

CONFIRMATION NO. 8737

POWER OF ATTORNEY NOTICE

39196
SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET
SUITE 600
ALEXANDRIA, VA 22314

OC000000028884434

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/17/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/pashanoski/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/733,770	12/12/2003	Kun-Hee Suh	7337

CONFIRMATION NO. 8737

POA ACCEPTANCE LETTER

67339
IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE, IL 60089

OC000000028884459

Date Mailed: 03/17/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/17/2007.

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.

/pashanoski/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICE OF MICHAEL A. SANZO, LLC
15400 CALHOUN DR.
SUITE 125
ROCKVILLE MD 20855

MAILED
JUL 14 2010
OFFICE OF PETITIONS

In re Patent of Rieping	:	DECISION ON REQUEST
Patent No. 7,638,313	:	FOR
Issue Date: December 29, 2009	:	RECONSIDERATION OF
Application No. 10/733,776	:	PATENT TERM ADJUSTMENT
Filed: December 12, 2003	:	and
Atty Docket No. 7601/80921	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 22, 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 ninety-six (1096) 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 ninety-six days is **GRANTED to the extent indicated herein.**

The Office does not concur with patentee's assertion that the period of B delay is 1096 days. The period of B delay in this case is 929 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, no RCE was filed. The maximum period of B Delay in this case is 1113 days, which is the number of days beginning on December 13, 2006, the day after the date three years after the application's filing date, and ending on December 29, 2009, the date the patent issued.

Three days must be subtracted from this total because there is overlap between the A delay period and the B delay period (June 14, 2008 to June 16, 2008)

In addition, patentee's 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 181 day period beginning on April 27, 2007, the date the Notice of Appeal was filed, and ending on October 24, 2007, the date a non-final Office action was mailed. Excluding the 181 days consumed by appellate review and taking the 3 day period of overlap into consideration results in a period of B delay of 929 days (1113-181-3).

The correct patent term adjustment is 804 days, which is the sum of 16 days of A Delay and 929 days of B Delay reduced by 141 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, 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 37 CFR § 1.136.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred four (804)** 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 : 7,638,313 B2

DATED : **December 29, 2009** **DRAFT**

INVENTOR(S) : Rieping

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 972 days

Delete the phrase "by 972 days" and insert – by 804 days--

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

SEP 22 2006

OFFICE OF PETITIONS

In re Application of
Dominach, et al
Application No. 10/733,793
Filed: December 10, 2003
Attorney Docket No. KIRU-0026

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 21, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Peter M. Ullman on behalf of all attorneys of record who are associated with customer No. 23377.

All attorneys/agents associated with the Customer Number 23377 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 Richard Dominach at the address indicated below.

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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Richard Dominach
12 English Lane
Lincroft, NJ 07738

cc: Mr. Ashok Tankha, Esq.
IP Procure, Inc.
36 Greenleigh Drive
Sewell, NJ 08080

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/733,793	12/10/2003	Richard F. Dominach	KIRU-0026

CONFIRMATION NO. 8216

OC000000020508452

OC000000020508452

23377
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

Date Mailed: 09/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/21/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Karen C. Roles	: DECISION ON REQUEST FOR
Patent Number	: 7665071	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1800** 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

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of	:
Chodosh	: DECISION ON PETITION
Application No. 10/733,822	:
Filed: December 10, 2003	:
Docket No.: 51483/RVW/C987	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 15, 2006.

This application was held abandoned December 22, 2005 for failure to timely submit a proper reply to the non-final Office action mailed September 21, 2005. Notice of Abandonment was mailed April 24, 2006.

Petitioners assert that a response to the non-final Office action was timely submitted on October 31, 2005 and has submitted as proof of USPTO receipt of the reply a return postcard dated stamped October 31, 2005.

The original response submitted October 31, 2005 has been located. 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 1700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN PAUL DAVIS
WOOD HERRON & EVANS LLP
2700 CAREW TOWER
CINCINNATI, OHIO 45202-2917

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Juergen Motzer et al	:	
Application No. 10/733,825	:	NOTICE
Filed: December 11, 2003	:	
Attorney Docket No. OMT/16		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2856.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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IMMUNICON CORPORATION
3401 MASONS MILL RD
SUITE 100
HUNTINGDON VALLEY PA 19006

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of		
Terstappen, et al.	:	
Application No. 10/733,829	:	DECISION ON
Filed: December 10, 2003	:	PETITION
Attorney Docket No. IMMC 208.2	:	

This is in response to the petition to revive under 37 CFR 1.137(a), filed November 4, 2004.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely submit corrected drawings as required by the Notice of Allowability mailed on June 23, 2004. This notice set a period for reply of three months. No extensions of time were permitted. No corrected drawings having been received, the above-identified application became abandoned on September 24, 2004. A Notice of Abandonment was mailed on October 27, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the

Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Petitioner states that the failure to submit drawings stems from two reasons: (1) a clerical error on the part of an employee in misplacing the "section of the examiner's comment requiring formal drawings"; and (2) the lack of a backup system at the time. No backup system was in place because petitioner's firm was instituting a electronic backup system which required a period of debugging. In addition, the firm's lone paralegal left at the end of August.

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care.[3] Here petitioner has not provided a sufficient showing as to elements (1), (2) or (3).

As to element (1), it is not clear from the petition why the misplacing of the "section of the examiner's comment requiring formal drawings" resulted in the failure to timely submit corrected drawings. The requirement for corrected drawings was also checked off on the form page of the Notice of Allowability.

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[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(III)(C)(2).

As to element (2), petitioner has not provided a full explanation of the firm's business routine with respect to docketing.

As to element (3), petitioner has not discussed the specifics of the training and experience of the employee who misplaced the paperwork pertaining to corrected drawings. In addition, while presumably it was the paralegal who misplaced the paperwork, petitioner does not state this in the petition. Clarification is needed.

Alternative Venue:

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 request for reconsideration 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)[4]; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

Receipt of the $110 fee for a petition under 37 CFR 1.137(a), and the corrected drawings submitted with the petition, is acknowledged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[4] Effective December 8, 2004, the fee for a petition to revive under 37 CFR 1.137(b) was increased to $1,500.

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OFFICE OF PETITIONS

In re Application of		
Terstappen, et al.	:	
Application No. 10/733,829	:	DECISION ON
Filed: December 10, 2003	:	PETITION
Attorney Docket No. IMMC 208.2	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 21, 2005.

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 on June 23, 2004. This notice set a period for reply of three months. No extensions of time were permitted. No corrected drawings having been received, the above-identified application became abandoned on September 24, 2004. A Notice of Abandonment was mailed on October 27, 2004. Applicants filed a petition under 37 CFR 1.137(a) on November 4, 2004. However, this petition was dismissed in a decision mailed on January 13, 2005.

With the instant petition, petition paid the petition fee, submitted the required reply in the form of corrected drawings, and made the proper statement of unintentional delay.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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APR 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Douglas B. Heins :
Application No. 10/733,830 :
Filed: December 10, 2003 :
Attorney Docket No. 42441-8001.US01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 17 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 April 2, 2007. A Notice of Abandonment was mailed on October 18, 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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3625 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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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

Mail Date: 04/20/2010

Applicant	: Douglas B. Heins	: DECISION ON REQUEST FOR
Patent Number	: 7610207	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,830	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **721** 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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APR 27 2005

In re Application of	:	
Zhadanov	:	AP
Serial No:10/733,832	:	PETITION UNDER
Filed: December 12, 2003	:	M.P.E.P. 708.02, IV
For: CLEANING DEVICE WITH DISPOSABLE	:	
CLEANING ELEMENT	:	

This is in response to the petition filed April 2, 2005, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition lacks evidence showing that the applicant is of 65 years of age or more, such as a birth certificate, copy of driver's license or **applicant's** statement of age. Accordingly, the petition is denied.

The petition is **DENIED**

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Sam **ZHADANOV, et al.** :
Application No. 10/733,832 : DECISION ON PETITION
Filed: December 12, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, 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 **DISMISSED** as moot.

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.

A review of the file record discloses that the above-identified application issued into patent 7,310,851 on December 25, 2007. As this application has already issued, "special" status is no longer necessary.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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AUG 1 0 2005
Director's Office
Group 3700

Ilya Zhadanovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re application of
S. Zhadanov

Serial Number: 10/733,833
Filed: December 12, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **MULTI-PURPOSE HAND SHOWER**

This is a decision on the petition filed on April 02, 2005, 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: 8/10/05

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APR 06 2009

OFFICE OF PETITIONS

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re Application of	:	
Eli Zhadanov et al.	:	
Application No. 10/733,833	:	DECISION ON PETITION
Filed: December 12, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, 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 **DISMISSED AS MOOT**.

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 above-listed application is abandoned.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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AUG 10 2005

Director's Office
Group 3700

Ilya Zhadanovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re application of
S. Zhadanov

Serial Number: 10/733,834
Filed: December 12, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **MULTI-PURPOSE KITCHEN PULL-OUT FAUCET**

This is a decision on the petition filed on April 02, 2005, 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: 8/10/05

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ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Sam ZHADANOV et al.	:	
Application No. 10/733,834	:	DECISION ON PETITION
Filed: December 12, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), March 20, 2009 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Sam Zhadanov, driver's license attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

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 3751 for action on the merits commensurate with this decision.

Tredelle D. Jackson
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
10/733,845	12/11/2003	2812	0.00	5308-299	15	59	4

CONFIRMATION NO. 9026

CORRECTED FILING RECEIPT

OC000000012843149

Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

Date Mailed: 06/02/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Peter Andrews, Durham, NC;
Elbert Brown, Morrisville, NC;
Gerry Negley, Hillsborough, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/02/2004

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Semiconductor substrate assemblies and method for preparing and dicing the same

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).

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MADSON & AUSTIN
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

COPY MAILED

DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Williams et al. :
Application No. 10/733,846 :
Filed: December 11, 2003 :
Title: Expansion-Controlled Joints in Airbags For Out-Of-Position Occupants and Cushion Positioning

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of March 9, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 10, 2006. A Notice of Abandonment was mailed on October 16, 2006.

This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Sally J. Brown
Autoliv ASP, Inc.
3350 Airport Road
Ogden, Utah 84405

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter A. Carr et al	:	
Application No. 10/733,847	:	DECISION GRANTING PETITION
Filed: December 10, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 034474-0111	:	

This is a decision on the petition, filed June 2, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 10, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 17, 2005 accompanies this decision on petition.

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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 1645 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc:
NORMA E. HENDERSON
MINCKLEY, ALLEN & SNYDER
43 NORTH MAIN STREET
CONCORD NH 03301-4934

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUL 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,459,541	:	
Hall et al.	:	DECISION ON APPLICATION FOR
Issue Date: 12/02/2008	:	PATENT TERM ADJUSTMENT
Application No. 10/733852	:	UNDER 37 CFR 1.705(d)
Filing or 371(c) Date: 12/10/2003	:	
Attorney Docket No. 14230-010002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed January 29, 2009. Patentees assert that the adjustment of 61 days accorded in connection with the reply to the Notice to File Missing Parts of Nonprovisional Application is incorrect, and that the correct adjustment in this regard is 66 days. Patentees further argue that application is entitled to an additional adjustment of 723 days in accordance with 37 CFR 1.703(b).

The application for patent term adjustment is granted to the extent indicated herein.

The above-identified application matured into U.S. Patent No. 7,459,541 on December 2, 2008. The patent issued with a patent term adjustment of 612 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment determination for the above-identified patent be changed from 612 days to 907 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 723 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 300 days do not overlap as these periods do not occur on the same day.

The 723-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 10, 2003, and the patent having been issued on December 2, 2008, three years and 723 days later. Patentees assert that in addition to this 723-day period, they are

entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 300 days. This 300-day period is the period of delay for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1). A non-final Office action was mailed on December 7, 2005, 14 months and 300 days after the application was filed on December 10, 2003.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

Patentees note that the Office incorrectly calculated the period of reduction of 61 days attributed to Applicant pursuant to 37 CFR 1.704(b), for filing a reply to the Notice to File Missing Parts of Nonprovisional Application, mailed May 20, 2004. The Office incorrectly noted October 20, 2004 as the date that the reply was filed; however, as indicated by patentees, the reply was filed on October 25, 2004, three months and 66 days after the Notice was mailed. Patentees do not dispute the reductions of 31 days and 19 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (723 days) and the period of Examination Delay (300 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1023 days, which is the sum of the period of Three Year Delay (723 days) and the period of Examination Delay (300 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 907 days (723 days + 300 days reduced by 0 days overlap – 116 days (66 days + 31 days + 19 days applicant delay)).

The Office agrees that as of the issuance of the patent on December 2, 2008, the application was pending three years and 723 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 300 days is correct. At issue is whether patentees should accrue 723 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 300 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 300 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 10, 2003, to the date the patent issued on December 2, 2008. Prior to the issuance of the patent, 300 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 300 days for Office examination delay overlap with the 723 days of Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 723 days, not 723 days + 300 days. The Office took 14 months and 300 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 300 days of Office delay and the 116 days of applicant delay and the time allowed within the time frames for processing and examination, the application issued three years and 723 days after its filing date. The Office did not delay 723 days and then an additional 300 days. Accordingly, 723 days of patent term adjustment (not 723 days and 300 days) was properly entered because the 300 days attributable to examination delay overlaps with the adjustment of 723 days attributable to delay in issuance of the patent. Entry of both periods is not warranted.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Accordingly, the patent will be accorded an overall adjustment of 607 days (adjustments totalling 723 days less reductions totalling 116 days).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the Office error pursuant to 37 CFR 1.704(b) as noted *supra* . The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred seven (607)** days.

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.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,459,541 B2

DATED : December 2, 2008

INVENTOR(S) : Hall 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 (612) days.

Delete the phrase "by 612 days" and insert – by 607 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	DECISION ON RESPONSE TO
Hall et al.	:	REQUEST FOR RECONSIDERATION
Patent Number: 7,459,541	:	OF PATENT TERM ADJUSTMENT
Issue Date: 12/02/2008	:	and
Application No. 10/733852	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 12/10/2003	:	CERTIFICATE OF CORRECTION
Attorney Docket Number: 14230-010002	:	

This is a decision on the renewed petition filed on August 14, 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 nine hundred seven (907) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seven (907) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by nine hundred seven (907) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: Fish & Richardson P.C.
1180 Peachtree Street NE
21st Floor
Atlanta, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,459,541 B2

DATED : **December 2, 2008**

INVENTOR(S) : Hall 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 612 days.

Delete the phrase "by 612 days" and insert – by 907 days--

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COMMISSIONER FOR PATENTS
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JUN 03 2004

Office of the Director
Group 3300

CHARLES F. LUMPKIN
10414 SHAW DRIVE
SPOTSYLVANIA, VA 22553

In re application of
Charles F. Lumpkin
Application No. 10/733,854
Filed: December 12, 2003
For: SQUIRREL PROOF BIRD FEEDER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on December 12, 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 statement signed by Mr. Lumpkin indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 5/25/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO, IL 60610-4764

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OFFICE OF PETITIONS

In re Application of
Peter A. Carr et al
Application No. 10/733,855
Filed: December 10, 2003
Attorney Docket No. 034474-0109

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 2, 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 10, 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 October 13, 2005 accompanies this decision on petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1634 for examination in due course.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Norma E. Henderson
43 North Main Street, 2nd Floor
Concord, NH 03301-4934

Attachment: Notice Regarding Rescission of Nonpublication Request

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

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Kevin Blair Frender	: DECISION ON REQUEST FOR
Patent Number	: 7665094	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,864	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1143** 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Girard et al.	:	DECISION GRANTING
Application No. 10/733,878	:	PETITION
Filed: 10 December, 2003	:	
Attorney Docket No. BIOBANK.012A	:	

This is a decision on the petition under 37 C.F.R. § 1.183, filed on 22 November, 2004 (certificate of mailing date 8 November, 2004), requesting waiver of the requirement for submitting a Sequence Listing in connection with an Information Disclosure Statement.

The petition is **GRANTED** to the extent indicated.

Petitioners request waiver of 37 CFR 1.98 in that it requires submission of the Sequence Listing of PCT Publication Number WO 01/571190. Petitioners assert that the Sequence Listing for the subject publication is greater than 5,000 pages in length and is contained in a USPTO database. Petitioners apparently assert that submission of the Sequence Listing with the IDS would be unduly burdensome.

The submission requirement is waived only because a review of Office databases reveals that the above-referenced publication is contained in the USPTO Sequence Search Database. As such, submission of an additional copy of the Sequence Listing would serve no useful purpose. **However, the examiner may later require submission of an additional copy of the Sequence Listing if necessary.**

The application is being referred to Technology Center Art Unit 1632 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Jay Chesavage
3833 Middlefield Rd.
Palo Alto CA 94303

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Arnold et al. :
Application No. 10/733,883 :
Filed: December 15, 2003 :
Title: Power Combiner :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 26, 2005. In the alternative, petitioner on January 9, 2006 filed a petition to revive under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition to revive under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to timely file a response to the non-final Office Action which was mailed on January 27, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on April 28, 2005. A Notice of Abandonment was mailed on August 15, 2005.

In the present petition, petitioner contends a reply pursuant to 37 CFR 1.111 to the non-final Office Action was submitted on April 26, 2005. The amendment included a certificate of mailing statement pursuant to 37 CFR 1.8. To support petitioner's contention, petitioner has provided a copy of the reply which contains a certificate of mailing date of April 26, 2005.

The response submitted April 26, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

Petitioner is entitled to a refund of the previously submitted petition fee of $750.00 Petitioner may request a refund by writing to the Finance Office, Refund Section. A

copy of this decision to should accompany any request for refund.

The application is being forwarded to the Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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RICHARD D. KOENIG
4104 NORTH 50TH AVENUE
HOLLYWOOD, FL 33021

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard D. Koenig	:	
Application No. 10/733,886	:	
Filed: December 12, 2003	:	DECISION ON
For: THERAPEUTIC VIBRATING SHOE	:	PETITION

This is a decision in response to the correspondence filed January 3, 2006, requesting withdrawal of the holding of abandonment in the above-identified application. The correspondence is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a).

This Petition is hereby **dismissed as inappropriate**.

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 timely and properly reply to the non-final Office action, mailed January 12, 2005. The Notice set a three (3) month period for reply, and provided for extensions of time under 37 CFr 1.136(a). No response having been received, the application became abandoned on April 13, 2005. A Notice of Abandonment was mailed December 19, 2005.

The instant petition

Applicant files the instant petition and requests withdrawal of the holding of abandonment. In support of this requests, Applicant provides that he forgot about the application.

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).

Here, a petition to revive the application (and fee) is the appropriate course of action.

Applicant is strongly urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

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: 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

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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RICHARD D. KOENIG
4104 NORTH 50TH AVENUE
HOLLYWOOD, FL 33021

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APR 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard D. Koenig	:	
Application No. 10/733,886	:	
Filed: December 12, 2003	:	DECISION ON
For: THERAPEUTIC VIBRATING SHOE	:	PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 2, 2006, 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 non-final Office action, mailed January 12, 2005. The Notice set a three (3) month period for reply, and provided for extensions of time under 37 CFr 1.136(a). No response having been received, the application became abandoned on April 13, 2005. A Notice of Abandonment was mailed December 19, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the January 12, 2005 Office action was filed July 19, 2005. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3728 for processing of the response, filed July 19, 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

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Alexandria, VA 22313-1450
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

In re Application of: Hochstein, James R. Jr. et al Serial No.: 10/733,889 Filed: Dc. 11, 2003 Docket: 085.10959-US(03-429) Title: DETONATIVE CLEANING APPARATUS	DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on Oct. 17, 2007 to withdraw the finality of the Office action of Aug. 23, 2007. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

In the petition, the applicant requests withdrawal of the finality of the Office action mailed Aug. 23, 2007. The petitioner claims that the amendment of Jun. 8, 2007 incorporated a property inherent in claim 3 into independent claim 1 for clarification. The Aug. 23, 2007 Office action rejected claims including claim 3 under 35 U.S.C, 103(a) as being unpatentable over Jennings et al in view of Hunter, Jr. The examiner stated in the final Office action of Aug. 23, 2007 that the applicant's amendment necessitated the new ground(s) of rejection. Petitioner is of the opinion that this is clearly incorrect. The final Office action did not attempt to substantiate a basis for this assertion. The incorrectness can be seen, for example, in the prior rejection of claim 3 and present rejection of claims l and 3. Petitioner believes the new ground is necessary to reject prior claim 3 and was not made necessary by amendment. Petitioner requests the finality of the last Office action of Aug. 23, 2007 be withdrawn.

The record shows that:

1. On Mar. 16, 2007, the examiner issued a non-final Office action rejecting claims 1 and 4 under 35 U.S.C § 102(b) over Hunter, (U.S. Pat. 5,494,004) and claims 2, 3 and 5-9 under 35 U.S.C. §103 as unpatentable over Hunter (U.S. Pat. 5,494,004) in view of Jennings et al (U.S. Pat. 2,972,502) as grounds for rejection.
2. In response to the non-Final rejection, on Jun. 8, 2007, the applicant filed an amendment adding dependent claims 16-20. In the amendment of Jun. 8, 2007, the applicant also amended independent claim 1 by inserting a phrase "against relative moment" to overcome the rejection under 35 USC 102(b) over Hunter (U.S. Pat. 5,494,004).
3. On Aug. 23, 2007, the examiner mailed a final Office action rejecting claims 1-9 and 16-20 as unpatentable over Jennings et al (U.S. Pat. 2,972,502) in view of Hunter, (U.S. Pat.

5,494,004) under 35 U.S.C. §103 as grounds for the rejection. In the rejection, the examiner stated that the applicant's amendment of Jun. 8, 2007 necessitated the new ground(s) of rejection.

4. On Oct. 17, 2007, the present petition was filed requesting withdrawal of the finality of the Office action mailed Aug. 23, 2007 based on petitioner's belief that the new ground is necessary to reject prior claim 3 and was not made necessary by amendment to independent claim 1.

Discussion and Analysis

Relevant portions of MPEP 706.07(a): Final Rejection, When Proper on Second Action, states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where ***the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims*** nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP § 609.04(b).

In order to determine whether or not the amendment filed on Jun. 8, 2007 necessitated the new grounds of rejection in the final Office action of Aug. 23, 2007, a comparison of at least the amended claim 1 filed on Jun. 8, 2007 and the previous claim 1 as originally filed on Dec. 11, 2003 must be made. A review of the original claim 1 indicates that independent claim 1 was amended. The phrase "against relative moment" was added. In light of the amended claim 1, the examiner was required to search for and reconsider the prior art relating to the use of a plurality of segments secured end-to-end "against relative moment". The search strategy, search fields, consideration and application of prior art references of record are now different. The addition of the phrase "against relative moment" necessitated the new grounds of rejection by requiring a different combination of the prior art references. In this case, the amended claim 1 and other dependent claims 2-9 and newly added dependent claims 16-20 were finally rejected as unpatentable over Jennings et al (U.S. Pat. 2,972,502) in view of Hunter (U.S. Pat. 5,494,004) under 35 U.S.C. §103 as new grounds for the rejection.

Petitioner's argument is that the insertion of the phrase "against relative moment" to claim 1 is an incorporation of a property inherent in claim 3 into independent claim 1 for clarification, and therefore, the application of newly combined prior art references in the final rejection is not necessitated by the amendment to claim 1. The line of argument is not convincing. Applicant's amendment to independent claim 1 does necessitate the new grounds of rejection. In the Mar. 16, 2007 non-final Office action, the examiner rejected original claims 1 and 4 under 35 U.S.C § 102(b) over Hunter (U.S. Pat. 5,494,004) and original claims 2, 3 and 5-9 under 35 U.S.C. §103 as unpatentable over Hunter, U.S. Pat. 5,494,004 in view of Jennings et al (U.S. Pat. 2,972,502) as grounds for rejection. In response to the Jun. 8, 2007 amendment, the examiner issued a final Office action rejecting amended claim 1 and its dependent claims 2-9 and newly added dependent claims16-20 as unpatentable over Jennings et al (U.S. Pat. 2,972,502) in view of Hunter U.S. Pat. (5,494,004) under 35 U.S.C. §103 as grounds for the rejection. The review of

the record shows that the examiner was in compliance with proper examining practice as set forth in M.P.E.P. 706.07(a). Therefore, the amendment to the claims presented on Jun. 8, 2007 necessitated the new grounds of rejection presented in the final Office action issued on Aug. 23, 2007. The finality of the Office action is therefore appropriate.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's finality of the Office action dated Aug. 23, 2007 is proper.

The application is being forwarded to Examiner Ndubizu of Art Unit 3749 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is dismissed.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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David G. Henry
900 WASHINGTON AVE.
P.O. BOX 1470
WACO, TX 76703-1470

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OFFICE OF PETITIONS

In re Application of :
Mike Mattlage, et al. :
Application No. 10/733,897 :
Filed: December 10, 2003 :
Attorney Docket No. IMPROVED FISHING :
HOOK (CI

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2006 and the supplemental on March 5, 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 May 23, 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)(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 August 24, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3643 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Schaekers et al.
Application No. 10/733,907
Filed: December 11, 2003
Attorney Docket No. 10908/6

This is a decision on the petition filed May 21, 2004, requesting entry of Figure 8 submitted on May 21, 2004.

The petition is **dismissed**.

As discussed later in this decision, a corrected drawing sheet containing Figure 7 must be filed within two months of the mailing date of this decision or the application will become abandoned. The two month time period may be extended under 37 CFR 1.136(a).

On December 11, 2003, the application was filed.

On March 19, 2004 , the Office of Initial Patent Examination mailed a Notice stating that Figure 8 of the drawings was missing.

Petitioner seeks to add Figure 8 to the application in reliance on an incorporation by reference.

The Office allows an applicant to rely upon an incorporation by reference of another application when a portion of the child application has been inadvertently omitted.

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 provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. . . .
>
> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit

the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

If petitioner desires for the examiner to consider the missing pages 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. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application.

Figure 8 submitted with the petition will not be entered. Should petitioner wish for Figure 8 to be entered, an amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The Office notes the Notice required the submission of corrected drawings. The corrected sheet containing Figure 7 impermissibly includes Figure 8. Therefore, a corrected sheet containing Figure 7, which can be used for prosecution, has not been filed. A new corrected drawing sheet containing only Figure 7 must be filed. Petitioner may file a preliminary amendment along with Figure 8 on separate sheets of paper. The corrected sheet must be filed within two months of the mail date of this decision. The time period may be extended under the provisions of 37 CFR 1.136(a). Failure to timely file the new drawing will result in the abandonment of the application.

The Office of Initial Patent Examination will be informed of this decision and will await the filing of a new Figure 7.

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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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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OFFICE OF PETITIONS

In re Application of Josef GERL Application No. 10/733,911 Filed: December 10, 2003 Attorney Docket No. 2001P16019WOUS	DECISION ON PETITIONS UNDER 37 CFR 1.183 AND UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/06270, filed June 7, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1761 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/733,911	12/10/2003	1761	900	2001P16019WOUS	2	6	1

CONFIRMATION NO. 8492

CORRECTED FILING RECEIPT

OC000000019906058

000046726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 08/04/2006

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)

Josef Gerl, Palling, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/06270 06/07/2002

Foreign Applications

GERMANY 10128369.5 06/12/2001
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 US10/733,911

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cooking appliance with an extractor fan

Preliminary Class

099

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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GIFFORD KRASS GROH
SPRINKLE & CITKOWSKI PC
P O BOX 7021
TROY, MI 48007-7021

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NOV 22 2005

OFFICE OF PETITIONS

In re Application of	:
Liang Shao et al	:
Application No. 10/733,913	: DECISION ON PETITION
Filed: December 11, 2003	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. HAM-10802/04	:

This is a decision on the petition, filed November 21, 2005, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a concurrently filed continuation application under 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This abandoned matter is being referred to Files Repository.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE IL 61265

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NOV 1 6 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Clemens RICKERT et al. :
Application No. 10/733,930 :
Filed: December 11, 2003 :
Attorney Docket No. 09210-US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 26, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 27, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, terminal disclaimer, and $130 terminal disclaimer fee; (2) the petition fee of $1500; (3) and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 26, 2004 is accepted as having been unintentionally delayed.

Petitioner was charged the $130 terminal disclaimer fee and the $1500 petition fee twice on July 19, 2005. Therefore, these unnecessary fees will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3671 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: William Kress Bodin	: DECISION ON REQUEST FOR
Patent Number	: 7634412	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,941	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1602** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 2 4 2008

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS MN 55118

In re Application of	:	
Gerfast	:	
Application No. 10/733,944	:	DECISION
Filed: 12 December, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the papers considered as a petition filed on 3 March, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES: 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."

BACKGROUND

The record reflects that:

- Applicant, failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 20 May, 2005, with reply due absent an extension of time on or before 20 August, 2007;

- thereafter:

—Petitioner's 6 June, 2005, amendment was followed by the 28 March, 2006, Notice of Non-Compliant Amendment (copy enclosed);

—Petitioner's 2 April, 2006, amendment was followed by the 16 June, 2006, Notice of Non-Compliant Amendment (copy enclosed);

—Petitioner's 23 June, 2006, amendment was followed by the 12 June, 2007, Communication (copy enclosed);

—Petitioner's 27 June, 2007, amendment was followed by the 27 June, 2007, Notification of Fee Due (copy enclosed);

Petitioner is cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available;

- the Office mailed the Notice of Abandonment on 25 February, 2008;

- on 3 March, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that replies had been timely and properly filed to non-final Office action, and reasserting an earlier complaint that the "delay was at the PTO"—and ignoring that the extension of time requirement was to make timely Petitioner's reply under the then-current Fee Schedule (***Petitioner again is cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available***)—thus, Petitioner's showing does not conform to the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively (see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c).

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.

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.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to Withdraw the Holding of Abandonment

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (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 not to have satisfied showing requirement herein as discussed in the BACKGROUND, above—to wit: Petitioner's averment that replies had been timely and properly filed to non-final Office action, and reasserting an earlier complaint that the "delay was at the PTO" ignores that extension of time requirements are to make timely Petitioner's reply under the then-current Fee Schedule; ***moreover, Petitioner is cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available***)—thus, Petitioner's showing does not conform to the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively. The application went abandoned because Petitioner did not reply timely and properly to fee requirements at then-current fee schedules, moreover, ee requirements are not controlled by the fees and fee schedule at the date of Notice but at the date of fulfillment/payment.

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

A petition form and a credit card form have been included for Petitioner's use if required. Petitioner is cautioned that continuing failure to file a timely and proper reply may ultimately be considered as an indication of delay that cannot be termed "unintentional."

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) 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

[8] 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,944	12/12/2003	Sten R. Gerfast		8717

7590 05/20/2005

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

EXAMINER
NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/733,944	GERFAST, STEN R.	
	Examiner	Art Unit	
	Tran N. Nguyen	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) *9-18* is/are allowed.

6)☐ Claim(s) *1,2,4-8 and 19-22* is/are rejected.

7)☐ Claim(s) *3* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, and claim 9, "each (salient poles) including alternatively wound coils forming a single coil with two free ends" is indefinite because it is unclear. The recitation can be understood as:

(a) each poles including a plural coils *(since it is written in plural form)* that are alternately wound and all the coils form two free end for each pole; or,

(b) each poles including a single coil, and the coil of adjacent poles are alternately wound, wherein each coil of each pole form two free end; or

(c) each poles including a single coil, and the coil of adjacent poles are alternately wound, wherein number of coils selectedly connected together to form a single coil with two free end.

In light of the spec, the understanding of (c) is read as the interpretation for the prosecution of the merit herein.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. **Claims 1-2, 4-8, and 19-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Weissensteiner** (US PgPub 2004/0232796 A1) in view of **Namikawa** (JP 6-76976).

Regarding claims 1-2, 4, 6-8, 19-22, Weissensteiner discloses an electrical machine that can be operated as a generator comprising:

a rotor (6) having a plurality poles (5);

a stator (1) with the same number of poles (4), as the number of rotor's poles, each pole having each coil (3) alternately each poles including a single coil, and the coil of adjacent poles are alternately wound wherein number of coils selectedly connected together to form a single coil with two free end; wherein

the coils are in positions in front of the rotor poles to generate AC at all time, and the generator has a permanent magnet rotor and the stator poles having same dimensional width as the rotor poles (see figs 1-2) and the generator is a brushless and void of slip rings.

Weissensteiner further discloses that the individual coils of which can be opened with separate outlets or paralleled. The coils consist of coil section alternating on the periphery of stator. The multiple coiling consists of a stator coils consisting of two coils, separately wired to consumer devices with coil sections on the periphery of the stator in alternative sequence and connected in series. In general, Weissensteiner discloses that it

is based upon the application of the output, the coils can be configured as individual coil with two free ends or being grouped up in connection.

Weissensteiner substantially discloses the claimed invention, except for the limitations of the following:

(a) the coils form a single coil with two free ends generating an AC load, particularly the output is split into AC and rectified DC;

(b) the AC output is rectified by four diodes in a bridge circuit and then connected to a DC load, wherein the load having a capacitor connected across.

Namikawa, however, teaches a DC load (light) with the inverter circuit where the AC output split into AC and rectified DC by four diodes in a bridge circuit (2) and then connected to a DC load, wherein the load having a capacitor (6) connected across (fig 1) for the purpose of reducing noise and flicker.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the generator by embodying a circuit having AC output split into AC and rectified DC by four diodes in a bridge circuit and then connected to a DC load, wherein the load having a capacitor connected across, as taught by Namikawa. Doing so would reduce noise and flicker to the DC load, particularly if the load is a lighting.

Regarding claim 5, the claw pole rotor is well known in alternator, i.e., alternative current generator. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the generator by embodying a claw pole rotor in the generator. Doing so would enable to provide an alternator for a suitable industrial application such as in vehicle. Also, the claw pole rotor is well known in the art.

Allowable Subject Matter

Claims 9-18 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran N. Nguyen whose telephone number is (571) 272-2030. The examiner can normally be reached on M-F 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on (571)-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tran N. Nguyen
Primary Examiner
Art Unit 2834

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.
10/733,944	12/12/2003	Sten R. Gerfast		8717

7590 03/28/2006

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

EXAMINER
NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/733,944	GERFAST, STEN R.	
	Examiner	Art Unit	
	Tran N. Nguyen	2834	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

The amendment document filed on *06 June 2005* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:
- ☒ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☒ C. Other *clearly indicate newly added paragraph(s)*.

☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other _____.

☐ 3. Amendments to the drawings:
- ☒ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
- ☒ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
- ☐ C. Other _____.

☐ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
- ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
- ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
- ☒ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☒ E. Other: *write your remarks, arguments separate sheets*.

☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable _____ Telephone No. _____

DETAILED ACTION

Response to Amendment

The reply filed on 6/6/05 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The proper format of amendment for specification, claims, and remark (i.e. applicant argument). See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Applicant is suggested to seek assistance from the USPTO Inventor Asssistance 1-800-786-9199 or 571-272-1000, **asking for literature relating to Rules, Guidelines and Standard format of Amendment.**

Conclusion

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tran N. Nguyen
Primary Examiner
Art Unit 2834

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,944	12/12/2003	Sten R. Gerfast		8717

7590 06/16/2006

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

EXAMINER
NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Failure to Acceptably Respond to
Notice of Non-Compliant Amendment (37 CFR 1.121)
No New Time Period for Reply is Provided

The amendment document filed on 4/2/06 fails to provide the corrective action required by the prior **Notice of Non-Compliant Amendment (37 CFR 1.121)** mailed on 6/6/05. The amendment, including both the originally filed amendment and the amendment filed in response to the prior notice, is still considered to be non-compliant under 37 CFR 1.121. In order for the amendment document to be compliant, correction of the item(s) listed below is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

The period for reply continues to run from the mailing date of the prior Notice of Non-Compliant Amendment. The corrections listed below must be timely filed to avoid abandonment of the application. No new time period for reply is provided in this communication. See the Manual of Patent Examining Procedure (MPEP) § 714.03.

If the period for reply set forth in the prior Notice of Non-Compliant Amendment has expired, this application will become abandoned unless applicant: (1) corrects the deficiency, and (2) obtains an extension of time under 37 CFR 1.136(a). In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in the prior Notice of Non-Compliant Amendment (37 CFR 1.121).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☒ C. Other Attachment Box 1 A.B. not been completed From the First Notice of non-Compliant.

☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other _____

☒ 3. Amendments to the drawings: Attachment Box 3 A.B. not completed From the First notice of non-compliant

☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
- ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
- ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☐ E. Other: _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf.

Supervisory Legal Instruments Examiner (SLIE)

(571) 272-1643
Telephone No.

Rev. 7/04

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/733,944	Applicant(s) GERFAST, STEN R.	
	Examiner Tran N. Nguyen	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 06 June 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
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- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☒ 3. Amendments to the drawings:
  - ☒ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☒ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☒ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: write your remarks, arguments separate sheets.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable _____ Telephone No. _____

FAXED 6-23-06

FILED 12-12-2003 5/20 2005 MAY 31 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

FIRST OFFICE ACTION REPLY

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

REPLY JAN 6 2005

MAILED FROM PT. 6-16-06

RECEIVED 6-23-06

Failure to Acceptably Respond to
Notice of Non-Compliant Amendment (37 CFR 1.121)
No New Time Period for Reply is Provided

The amendment document filed on 4/2/06 fails to provide the corrective action required by the prior Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 6/6/05. The amendment, including both the originally filed amendment and the amendment filed in response to the prior notice, is still considered to be non-compliant under 37 CFR 1.121. In order for the amendment document to be compliant, correction of the item(s) listed below is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

The period for reply continues to run from the mailing date of the prior Notice of Non-Compliant Amendment. The corrections listed below must be timely filed to avoid abandonment of the application. No new time period for reply is provided in this communication. See the Manual of Patent Examining Procedure (MPEP) § 714.03.

If the period for reply set forth in the prior Notice of Non-Compliant Amendment has expired, this application will become abandoned unless applicant: (1) corrects the deficiency, and (2) obtains an extension of time under 37 CFR 1.136(a). In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in the prior Notice of Non-Compliant Amendment (37 CFR 1.121).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- [X] 1. Amendments to the specification:
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  - [ ] B. New paragraph(s) should not be underlined.
  - [X] C. Other Attachment Box 1 A.B. not been completed From the First Notice of non-Compliant.
- [ ] 2. Abstract:
  - [ ] A. Not presented on a separate sheet. 37 CFR 1.72.
  - [ ] B. Other
- [X] 3. Amendments to the drawings: Attachment Box 3 A.B. not completed From the First notice of non-compliant
- [ ] 4. Amendments to the claims:
  - [ ] A. A complete listing of all of the claims is not present.
  - [ ] B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
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  - [ ] D. The claims of this amendment paper have not been presented in ascending numerical order.
  - [ ] E. Other:

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preexamnotice/officeflyer.pdf

LISA WRIGHT (571) 272-1643

Supervisory Legal Instruments Examiner (SLIE) Telephone No.

6-23-06 *UNABLE TO REACH LISA WRIGHT (OUT OF OFFICE)
*LEFT MESSAGE FOR CLARIFICATION OF THE ABOVE REQ.
WITH TRAN N. NGUYEN 571-272-2030 8:40 AM (C.T)
6-23-06

Rev. 7/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,944	12/12/2003	Sten R. Gerfast		8717

7590 06/12/2007
STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

EXAMINER
NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
2834	

MAIL DATE	DELIVERY MODE
06/12/2007	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 DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10733944	12/12/03	GERFAST, STEN R.	

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

EXAMINER
Tran N.. Nguyen

ART UNIT	PAPER
2834	505

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attachment.

Tran Nguyen
Tran N. Nguyen
Primary Examiner
Art Unit: 2834

Communication Letter

In order for the application to be further processed, the applicant is request to comply the following:

1. Requirement an additional $165.00 payment for the request of extension of time, as this request is filed on 6/23/06.

2. The 3 amendments, filed on 6/6/05, 4/2/06, and 6/23/06, are all non-compliant amendments. These amendments were not written in the format as set forth in the 37 CFR 1.121. Two letters of Notice of Non-compliant Amendment were sent, one on 3/28/06 and the other on 6/16/06. However, the applicant has not sent any supplemental amendment to correct the non-compliant issues for the amendments, particularly for the most current amendment, filed on 6/23/06.

The applicant is suggested to take the following actions:

(1) Make an additional $165.00 for the request of extension of time;

(2) Submit a supplemental amendment for the most current amendment filed on 6/23/06. In this supplemental amendment, the applicant should include any changes in the drawings, the claims, and the specification. Make sure that the amendment format must be written to comply with 37 CFR 1.121 such as: to underline new wording and to strike through old wording that being changed in the claims and in the specification; to identify the most current status of each claim, e.g., if the claim is changed, then the status identifier "currently amended" should be included right after the claim number; if the claim remain unchanged, then the status identifier "original" should be included right after the claim number.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran N. Nguyen whose telephone number is 571-272-2030. The examiner can normally be reached on 7:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. (Note: **Use this Central Fax number 571-273-8300 for all official response.**)

Do **not** use the Examiner's RightFax number without informing the Examiner first because, according to the USPTO policy, any document being sent via RightFax is treated as unofficial response and will not be officially dated until it is routed to the Central Fax.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tran N. Nguyen
Primary Examiner
Art Unit 2834

Tran Nguyen

Document Code: IMIS

Notice of Fee Due

Date: 06-27-07

Application Number: 10,733,944

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- ☐ Insufficient payment by check or money order.
- ☐ Insufficient funds in deposit account _____.
- ☒ Insufficient payment by credit card.
- ☐ Declined credit card.
- ☐ No authorization to charge a deposit account.

Fee code(s) to be applied:	2252	225
Amount in holding fee code:	1622	
	2622	
	1999	165
Total remaining due from applicant:		60

RAM Operator E.G.A

Rev. 4/20/06

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,944	12/12/2003	Sten R. Gerfast		8717

7590 02/25/2008
STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

EXAMINER
NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
2834	

MAIL DATE	DELIVERY MODE
02/25/2008	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.

Notice of Abandonment	Application No.	Applicant(s)	
	10/733,944	GERFAST, STEN R.	
	Examiner	Art Unit	
	Tran Nguyen	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *20 May 2005*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☒ A reply was received on *23 June 2007* but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

The applicant has not responded in an appropriate manner after numerous chances were given to him via three Notices of Non-Compliant Amendment (37 CFR 1.121). As the record shows, three Notices of Non-Compliant Amendment were sent on 3/28/06, 6/16/06 and 6/12/07 to the applicant. Still, the applicant has not been able to properly file an amendment in a manner that complies with rule 121. Therefore, the application is abandoned.

/Tran Nguyen/
Primary Examiner, Art Unit 2834

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

United States Patent and Trademark Office

Instructions for Completing the Credit Card Payment Form

Credit Card Information

- Enter all credit card information including the payment amount to be charged to your credit card and remember to sign the form. The United States Patent and Trademark Office (USPTO) cannot process credit card payments without an authorized signature.

- The USPTO does **not** accept a general authorization to charge any payment deficiency or any additional fees to a credit card.

- The USPTO does **not** accept debit cards or check cards that require use of a personal identification number as a method of payment.

Credit Card Billing Address

- Address information is required for credit card payment as a means of verification. Failure to complete the address information, including zip/postal code, may result in the payment not being accepted by your credit card institution.

Request and Payment Information

- Provide a description of your request based on the payment amount. For example, indicate the item as "basic filing fee" (patent) *or* "first maintenance fee" (patent maintenance fee) or "application for registration" (trademark) *or* "certified copy of a patent" (other fee).

- Indicate the nature of your request by the type of fee you wish to pay: Patent Fee, Patent Maintenance Fee, Trademark Fee or Other Fee. Complete information for each type of fee as applicable to identify the nature of your request. Indicate only one type of fee per form.

- If you are requesting and paying a fee based on a previously filed patent or trademark application, indicate the application/serial number, patent number or registration number that is associated with your request. "Other Fee" is used to request copies of patent and trademark documents, certified copies, assignments, and other information products.

- IDON numbers are assigned by the USPTO for customers ordering patent and trademark information and products specified as "Other Fee" on the order form. If you have been assigned an IDON number from a previous customer order, include it with your request.

- For more information on USPTO fees and amounts, refer to the current fee schedule at www.uspto.gov (click on the "Site Index" link, "Fees, USPTO" link). To request a copy by mail, call the USPTO Contact Center at (800) 786-9199 or (571) 272-1000. Information on mailing addresses is also available at www.uspto.gov (click on the "Site Index" link, "Mailing Addresses" link).

Protect Your Credit Card Information

- The USPTO strongly recommends using this form for credit card payments submitted by mail, facsimile, or by hand-delivery. To protect your credit card information use only this form and do not include credit card information on any other form or document.

- To protect your credit card information, **do not submit this form electronically** through "EFS-Web" or any other USPTO Internet site. Credit card information for electronic credit card payments should be entered exclusively on the USPTO Internet site providing electronic payment capability.

United States Patent and Trademark Office

Instructions for Completing the Credit Card Payment Form

Paperwork Reduction Act Statement

This Credit Card Payment Form (PTO-2038) is approved for use through 02/28/2009 under OMB Control Number 0651-0043. This collection of information is required by 15 U.S.C. § 1113 or 35 U.S.C. § 41 and 37 CFR 1.16-1.28, 1.492, or 2.6-2.7. The information must be provided by a member of the public if he or she chooses to pay a USPTO fee by credit card. This information is also used by the USPTO to charge the appropriate fee amount to the appropriate credit card account. This collection is estimated to take two minutes to complete, including gathering and preparing information and submitting the Credit Card Payment Form (PTO-2038) to the USPTO. Time will vary depending upon the individual case. Please send any comments on the amount of time required to complete this form and/or suggestions for reducing the time burden to the Chief Information Officer, USPTO, PO Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. PLEASE REFER TO THE USPTO WEB SITE, UNDER THE "SITE INDEX" LINK, "MAILING ADDRESSES" LINK FOR THE CORRECT MAILING ADDRESS.

Privacy Act Advisory Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with the request for information solicited on the Credit Card Payment Form (PTO-2038). Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the authority for the collection of this information is 15 U.S.C. § 1113 or 35 U.S.C. § 41 and 37 CFR 1.16-1.28, 1.492, or 2.6-2.7; (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the USPTO is to charge the appropriate fee amount to the appropriate credit card account. If you do not furnish the requested information, the USPTO may not be able to charge the fee to the credit card or the credit card institution may refuse to accept the charge, either of which will result in the fee being treated as not having been paid.

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. § 552(a)). 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 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 the 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 from this system of records may be disclosed, as a routine use, to the Administrator, General Services Administration (GSA), or his 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.

PTO-2038 (09-2006)
Approved for use through 02/28/2009. OMB 0651-0043
United States 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.

Credit Card Payment Form

(Do not submit this form electronically via EFS-Web)

Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type: ☐ Visa ☐ MasterCard ☐ American Express ☐ Discover

Credit Card Account #:

Credit Card Expiration Date:

Name as it Appears on Credit Card:

Payment Amount: $ (US Dollars):

Cardholder Signature: | Date:

Refund Policy: The USPTO may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The USPTO will not refund amounts of $25.00 or less unless a refund is specifically requested and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.
Service Charge: There is a $50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21 (m)) .

Credit Card Billing Address

Street Address 1:

Street Address 2:

City:

State/Province: | Zip/Postal Code:

Country:

Daytime Phone #: | Fax #:

Request and Payment Information

Description of Request and Payment Information:

☐ Patent Fee	☐ Patent Maintenance Fee	☐ Trademark Fee	☐ Other Fee
Application No.	Application No.	Application No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No.		Identify or Describe Mark	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form or submits this form electronically via EFS-Web, the United States Patent and Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

PTO/SB/64 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

COPY MAILED
JUN 19 2008
OFFICE OF PETITIONS

In re Application of	:	
Gerfast	:	
Application No. 10/733,944	:	DECISION
Filed: 12 December, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 7 April, 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, a petition to revive under 37 C.F.R. §1.137(b) and alleging unintentional delay.

The petition under 37 C.F.R. §1.181 is **DISMISSED**, and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment"; or, in the alternative, as a "Renewed Petition under 37 C.F.R. §1.137(b) to Revive an Application Abandoned Due to Unintentional Delay." (Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific

fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A proper showing for a petition under 37 C.F.R. §1.181 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:

- A statement from practitioner stating that the reply was timely submitted by the practitioner;
- 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.

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.)

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).

It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition lacks a sufficient fee.

(It appears that as of this writing the petition fee specified is $770.00 and the former balance of $60.00 due for the extension of time is now $65.00 because the fee was increased from $225.00 to $230.00, however, Petitioner always should review the fee schedule set forth at the Office website (http://www.uspto.gov/web/offices/ac/qs/ope/fee2007september30_2008july01.htm#petition) to ensure proper payment.)

The Office has included herewith a printout of fees submitted by Petitioner, as he has requested.

If Petitioner wishes to observe the status of the instant application, Petitioner may obtain a Customer Number (*see*: http://www.uspto.gov/ebc/portal/register.htm) and associate that Customer Number with the instant application .

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 20 May, 2005, with reply due absent an extension of time on or before 20 August, 2007.

Thereafter:

- Petitioner's 6 June, 2005, amendment was followed by the 28 March, 2006, Notice of Non-Compliant Amendment. (All documents discussed herein previously were provided.)
- Petitioner's 2 April, 2006, amendment was followed by the 16 June, 2006, Notice of Non-Compliant Amendment.
- Petitioner's 23 June, 2006, amendment was followed by the 12 June, 2007, Communication.
- Petitioner's 27 June, 2007, amendment was followed by the 27 June, 2007, Notification of Fee Due.

Petitioner is cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available.

- the Office mailed the Notice of Abandonment on 25 February, 2008;

- on 3 March, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that replies had been timely and properly filed to non-final Office action, and reasserting an earlier complaint that the "delay was at the PTO"—and ignoring that the extension of time requirement was to make timely Petitioner's reply under the then-current Fee Schedule (Petitioner again is cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available)—thus, Petitioner's showing does not conform to the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively (see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c).

Thus, as to the petition to withdraw the holding of abandonment, Petitioner lacks herein: a proper showing as set forth in guidance in the Commentary at MPEP §711.03(c), and discussed above.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

---

[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.

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).)

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 2'shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[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).

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.

The petition fails to satisfy all of the above-stated requirements in that Petitioner failed make the showing required.

Allegations as to
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.)

The petition fails to satisfy all of the above-stated requirements in that Petitioner failed pay the proper petition fee (as set forth above)—and Petitioner is reminded of the previous balance due for an extension of time (as discussed above)..

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed**, and the petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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./
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.

Document Code: IMIS

Notice of Fee Due

Date: 06-27-07

Application Number: 10,733,944

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- ☐ Insufficient payment by check or money order.
- ☐ Insufficient funds in deposit account _____.
- ☒ Insufficient payment by credit card.
- ☐ Declined credit card.
- ☐ No authorization to charge a deposit account.

Fee code(s) to be applied:	2252	225
Amount in holding fee code:	1622	
	2622	
	1999	165
Total remaining due from applicant:		60

RAM Operator EJ.G.A

Rev. 4/20/06

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10733944 Total Records Found: 5

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/08/2008	00000003	1	2452	$255.00	04/07/2008	CC
06/27/2007	00000006	1	2252	$165.00	06/27/2007	CC
06/26/2006	00000070	1	2251	$60.00	06/23/2006	CC
12/16/2003	00000047	1	2001	$385.00	12/12/2003	CK
12/16/2003	00000048	1	2202	$18.00	12/12/2003	CK

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

COPY MAILED
NOV 2 4 2008
OFFICE OF PETITIONS

In re Application of	:	
Gerfast	:	
Application No. 10/733,944	:	DECISION
Filed: 12 December, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 27 June, 2008, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition under 37 C.F.R. §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)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition lacks the proper and sufficient fee.

Petitioner's attentions are drawn to the fee schedule set forth at the Office website: www.uspto.gov .

(It appears that as of this writing the petition fee specified is $810.00. Petitioner always should review the fee schedule set forth at the Office website (as of this writing at: http://www.uspto.gov/web/offices/ac/qs/ope/fee2008october02.htm#petition) to ensure proper payment.)

If Petitioner wishes to observe the status of the instant application, Petitioner may obtain a Customer Number (*see*: http://www.uspto.gov/ebc/portal/register.htm) and associate that Customer Number with the instant application .

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the non-final Office action mailed on 20 May, 2005, with reply due absent an extension of time on or before 20 August, 2007.

Thereafter:

Petitioner's 6 June, 2005, amendment was followed by the 28 March, 2006, Notice of Non-Compliant Amendment. (All documents discussed herein previously were provided.)

Petitioner's 2 April, 2006, amendment was followed by the 16 June, 2006, Notice of Non-Compliant Amendment.

Petitioner's 23 June, 2006, amendment was followed by the 12 June, 2007, Communication.

Petitioner's 27 June, 2007, amendment was followed by the 27 June, 2007, Notification of Fee Due.

Petitioner is cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available.

The Office mailed the Notice of Abandonment on 25 February, 2008;

On 3 March, 2008, Petitioner filed a petition under to 37 C.F.R. §1.181 with, *inter alia*, an averment that replies had been timely and properly filed to non-final Office action, and reasserting an earlier complaint that the "delay was at the PTO"—and ignoring that the extension of time requirement was to make timely Petitioner's reply under the then-current Fee Schedule.

The petition was dismissed on 24 March, 2008, inter alia, for failing to make the required showing.

On 7 April, 2008, Petitioner filed a second petition—thus under 37 C.F.R. §1.137(b) averring unintentional delay, and the petition was dismissed on 19 June, 2008, for failure to pay the proper fee because Petitioner erroneously paid the fee for a petition averring unavoidable delay ($255.00).

On 27 June, 2008, Petitioner filed the instant petition and set forth on the face of the petition that a fee of $700.00 was being paid, however, at this writing Office records do not reveal receipt of any payment by Petitioner with the instant petition, and as of this writing the total fee due for the instant petition is $810.00.

(Petitioner again is cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available)—thus, Petitioner's showing does not conform to the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively (see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

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.**

---

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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./
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerfast	:	
Application No. 10/733,944	:	DECISION
Filed: 12 December, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 28 November, 2008, supplemented on 24 February, 2009, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition under 37 C.F.R. §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)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

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.)

Petitioner continues to ignore the directions in the Notice of 28 March, 2006, a copy of which again is enclosed, as to the proper marking of amended drawings and amendments to the specification and claims. These deficiencies ***must*** *be overcome.*

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the non-final Office action mailed on 20 May, 2005, with reply due absent an extension of time on or before 20 August, 2007.

Thereafter:

Petitioner's 6 June, 2005, amendment was followed by the 28 March, 2006, Notice of Non-Compliant Amendment. (All documents discussed herein previously were provided.) Petitioner's 2 April, 2006, amendment was followed by the 16 June, 2006, Notice of Non-Compliant Amendment. Petitioner's 23 June, 2006, amendment was followed by the 12 June, 2007, Communication. Petitioner's 27 June, 2007, amendment was followed by the 27 June, 2007, Notification of Fee Due.

(Petitioner was cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available.)

The Office mailed the Notice of Abandonment on 25 February, 2008;

On 3 March, 2008, Petitioner filed a petition under to 37 C.F.R. §1.181 with, *inter alia*, an averment that replies had been timely and properly filed to non-final Office action, and reasserting an earlier complaint that the "delay was at the PTO"—and ignoring that the extension of time requirement was to make timely Petitioner's reply under the then-current Fee Schedule. The petition was dismissed on 24 March, 2008, inter alia, for failing to make the required showing.

On 7 April, 2008, Petitioner filed a second petition—under 37 C.F.R. §1.137(b) averring unintentional delay, and the petition was dismissed on 19 June, 2008, for failure to pay the proper fee because Petitioner erroneously paid the fee for a petition averring unavoidable delay.

On 27 June, 2008, Petitioner filed a petition and set forth on the face of the petition that a fee of $700.00 was being paid, however, upon review Office records did not reveal receipt of any payment by Petitioner with the petition, and as of that time the fee for the petition was $810.00. (Petitioner again was cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available). Thus Petitioner's showing did not conform to the showing requirements under the rule and the petition was dismissed on 24 November, 23008.

On 28 November, Petitioner filed a petition under 37 C.F.R. §1.137(b) averring unintentional delay, with fee, the reply in the form of an amendment and thereafter supplemented with the drawings on 24 February, 2009, and made the statement of unintentional delay. *However, what is clear from the 24 February, 2009, submission, as with those before it, Petitioner continued to ignore the directions in the Notice of 28 March, 2006, a copy of which again is enclosed, as to the proper marking of amended drawings and amendments to the specification and claims. These deficiencies* ***must*** *be overcome in order for the petition to be granted.*

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.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the reply requirement under the rule as discussed above.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

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 regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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./
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.

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.
10/733,944	12/12/2003	Sten R. Gerfast		8717

7590 03/28/2006

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

EXAMINER
NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/733,944	GERFAST, STEN R.	
	Examiner	Art Unit	
	Tran N. Nguyen	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on *06 June 2005* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☒ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other *clearly indicate newly added paragraph(s)*.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☒ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☒ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☒ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *write your remarks, arguments separate sheets*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable _____ Telephone No. _____

DETAILED ACTION

Response to Amendment

The reply filed on 6/6/05 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The proper format of amendment for specification, claims, and remark (i.e. applicant argument). See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Applicant is suggested to seek assistance from the USPTO Inventor Asssistance 1-800-786-9199 or 571-272-1000, **asking for literature relating to Rules, Guidelines and Standard format of Amendment.**

Conclusion

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tran N. Nguyen
Primary Examiner
Art Unit 2834

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEN R. GERFAST
1802 VALLEY CURVE ROAD
MENDOTA HEIGHTS, MN 55118

COPY MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerfast	:	
Application No. 10/733,944	:	DECISION
Filed: 12 December, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 24 March, 2009, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the non-final Office action mailed on 20 May, 2005, with reply due absent an extension of time on or before 20 August, 2005.

Thereafter:

Petitioner's 6 June, 2005, amendment was followed by the 28 March, 2006, Notice of Non-Compliant Amendment. (All documents discussed herein previously were provided.) Petitioner's 2 April, 2006, amendment was followed by the 16 June, 2006, Notice of Non-Compliant Amendment. Petitioner's 23 June, 2006, amendment was followed by the 12 June, 2007, Communication. Petitioner's 27 June, 2007, amendment was followed by the 27 June, 2007, Notification of Fee Due.

The Office mailed the Notice of Abandonment on 25 February, 2008;

On 3 March, 2008, Petitioner filed a petition under to 37 C.F.R. §1.181 with, *inter alia*, an averment that replies had been timely and properly filed to non-final Office action, and reasserting an earlier complaint that the "delay was at the PTO"—and ignoring that the extension of time requirement was to make timely Petitioner's reply under the then-current Fee Schedule. The petition was dismissed on 24 March, 2008, *inter alia*, for failing to make the required showing. (Petitioner was cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available.)

On 7 April, 2008, Petitioner filed a second petition—under 37 C.F.R. §1.137(b) averring unintentional delay, and the petition was dismissed on 19 June, 2008, for failure to pay the proper fee because Petitioner erroneously paid the fee for a petition averring unavoidable delay.

On 27 June, 2008, Petitioner filed a petition and set forth on the face of the petition that a fee of $700.00 was being paid, however, upon review Office records did not reveal receipt of any payment by Petitioner with the petition, and as of that time the fee for the petition was $810.00. (Petitioner again was cautioned to consult the Office website (www.uspto.gov) to ascertain the amount of fees due under the current Fee Schedule and ensure that passage of time between Notice and reply does not trigger a requirement for additional extensions if available). Thus Petitioner's showing did not conform to the showing requirements under the rule and the petition was dismissed on 24 November, 23008.

On 28 November, Petitioner filed a petition under 37 C.F.R. §1.137(b) averring unintentional delay, with fee, the reply in the form of an amendment and thereafter supplemented with the drawings on 24 February, 2009, and made the statement of unintentional delay. *However, what is clear from the 24 February, 2009, submission, as with those before it, Petitioner continued to ignore the directions in the Notice of 28 March, 2006, which again was enclosed, as to the proper marking of amended drawings and amendments to the specification and claims.* The petition was dismissed on 27 February, 2009.

On 24 March, 2009, Petitioner filed a petition under 37 C.F.R. §1.137(b) averring unintentional delay, with fee, the reply in the form of an amendment and drawings, and made the statement of unintentional delay (see statement in form submitted on 7 April, 2008).

The record (including the petitions filed on 3 March, 7 April, 27 June, and 28 November, 2008, and 24 March, 2009) does not necessitate a finding that the delay between midnight 20 August, 2005 (date of abandonment), and 24 March, 2009 (date of filing of grantable petition), was not unintentional. (*Again it is noted that the Office did not mail a Notice of Abandonment until 25 February, 2008.*)

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Sten R. Gerfast when accepting Petitioner's representation that the delay in filing the response was unintentional.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[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] 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 unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to 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.

It appears that the requirements herein under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2834 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/17/08

Patent No. :7006840
Inventor(s) : Bultan et al.
Issued : 2/28/06
Title : EFFICIENT FRAME TRACKING IN MOBILE RECEIVERS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [56] and col.1,4 & 6 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.
Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

VOLPE AND KOENIG, P.C.
UNITED PLAZA SUITE 1600
30 South 17th Street
Philadelphia, PA 19103

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN, TX 78759

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SEP 26 2008

OFFICE OF PETITIONS

In re Application of :
Arimilli et al. :
Application No. 10/733,953 : DECISION ON PETITION
Filed: December 10, 2003 :
Attorney Docket No. AUS920020194US1 :

This is a decision on the petition, filed September 12, 2008 under 37 CFR 1.137(a), which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition filed under 37 CFR 1.137(a) is **DISMISSED** as moot.
The petition filed under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 19, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 15, 2006.

Petitioner asserts that the Office action dated December 19, 2005 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of December 19, 2005. In this regard, the Office received a change of address on June 7, 2004, prior to the mailing of the Office action of December 19, 2005. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed August 15, 2006 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center AU 2189 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant
Petition 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

William J. McGinnis, Jr.
IBM Corporation
Dept. 917
3605 Highway 52 North
Rochester, MN 55901-7829

Mail Date: 04/21/2010

Applicant	: Richard D. Dettinger	: DECISION ON REQUEST FOR
Patent Number	: 7610263	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1302** 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

Paper No.

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of
Timothy Breeden and Doug Dew
Application No. 10/733,989
Filed: December 11, 2003
Title of Invention:
SYSTEM AND METHOD FOR SOFTWARE APPLICATION DEVELOPMENT IN A PORTAL ENVIRONMENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47

This is in response to a petition under 37 CFR 1.47(a), filed September 30, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", 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 11, 2003, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on April 27, 2004, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant files the instant petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventors.

In support of the petition the Applicant provides a Declaration Under 37 CFR §1.47 on Behalf of Signing Inventors in Support of Petition to Accept Declaration in Response to a Missing Parts Without the Signature of a Joint Inventor, executed by Karl F. Kenna, wherein Mr. Kenna declares that formal papers, "namely a Declaration for Patent Application and an Assignment" were sent to the nonsigning inventor via email and via Federal Express, and have not been returned. Kenna Declaration at p.2.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2).

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

As to item (1), applicant failed to show or provide proof that the inventor refused to sign the declaration. Before an inventor can refuse to sign an oath or declaration, he must have

been *presented with a copy of the application papers (specification, claims and drawings)*. *See* MPEP 409.03(d).

Applicant must present a copy of the application papers to the inventor.

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A review of the oath or declaration filed with the instant petition reveals that the citizenship of inventor Dew is missing from the declaration. An oath or declaration that includes the inventor's citizenship is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0025
Attn: Office of Petitions

By hand: Customer Window Located at:
U.S. Patent & Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Timothy Breeden and Doug Dew	:	
Application No. 10/733,989	:	DECISION REFUSING
Filed: December 11, 2003	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47
SYSTEM AND METHOD FOR SOFTWARE	:	
APPLICATION DEVELOPMENT IN A PORTAL	:	
ENVIRONMENT	:	

This is in response to the Request for Reconsideration of Petition, filed April 27, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The four (4) month extension of time request is hereby granted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", 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 11, 2003, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on April 27, 2004, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant filed a petition on September 30, 2004 under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventors.

In support of the petition the Applicant filed a Declaration Under 37 CFR §1.47 on Behalf of Signing Inventors in Support of Petition to Accept Declaration in Response to a Missing Parts Without the Signature of a Joint Inventor, executed by Karl F. Kenna, wherein Mr. Kenna declared that formal papers, "namely a Declaration for Patent Application and an Assignment" were sent to the nonsigning inventor via email and via Federal Express, and have not been returned. Kenna Declaration at p.2.

The petition was dismissed in a decision mailed October 25, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.47(a). Applicant was advised that "[b]efore an inventor can refuse to sign an oath or declaration, he must have been *presented with a copy of the application papers (specification, claims and drawings)*. *See* MPEP 409.03(d)." October 25, 2004 Decision Dismissing Petition at pp.2-3. Applicant was further advised that "Applicant must present a copy of the application papers to the inventor." Id.

Finally, the petition noted that the "[a] review of the oath or declaration filed with the instant petition reveal[ed] that the citizenship of inventor Dew [wa]s missing from the declaration. An oath or declaration that includes the inventor's citizenship is required." October 25, 2004 Decision Dismissing Petition at p.3.

The instant Request for Reconsideration

Applicant files the instant Request for Reconsideration and provides that Applicant learned of inventor Dew's new home address "in Champaign, Illinois, and subsequently Applicant's attorney sent a follow-up letter via FedEx. Copies of the letter and tracking receipt showing delivery on August…27, [2]004 are attached…." Reconsideration Request at p.3.

A review of the letter reveals that the letter references the Declaration and Assignment in the first paragraph, and states that "[for your convenience, we are enclosing another set of documents…." The letter then requests, in the second paragraph, that Applicant review the Declaration and Assignment and execute the documents. The third paragraph requests a return of the original documents in a self-addressed envelope provided by

Applicant. There is no mention in the letter that a copy of the above-identified application was included with the letter.

Applicant further provides that several emails were sent to inventor Dew; however, Applicant learned after the last of the emails had been sent, that "the host name could not be found." Reconsideration Request at p.3.

Applicant concludes with the assertion that a diligent effort has been made in an attempt to contact inventor Dew. Reconsideration Request at p.4.

Applicant has also filed several copies of the oath/declaration; however, none of the Declarations have been corrected to include the citizenship.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2).

As to item (1), Applicant is advised that there are two situations provided for: a) where an inventor refuses to sign the application papers, and b) where an inventor cannot be found or reached after diligent effort. Both situations are separate and distinct and require separate and distinct proofs before a petition may be granted.

Here, Applicant alleges that a diligent effort has been made in an attempt to contact inventor Dew.

Applicant is advised that diligent effort is only required where Applicant is asserting that an inventor is unavailable (cannot be reached). In that instance, while it is not required that the application (specification, claims and drawings), be mailed to the inventor, Applicant must establish the exercise of diligent effort in trying to find or reach the nonsigning

inventor. The MPEP provides that a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition.

Conversly, where as here, it is alleged that an applicant refuses to join an application (the inventor's whereabouts are known), the applicant must establish that the nonsigning inventor was presented with the application for signature.

Accordingly, as to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

As to item (1), applicant failed to show or provide proof that the inventor refused to sign the declaration. Before an inventor can refuse to sign an oath or declaration, he must have been *presented with a copy of the application papers (specification, claims and drawings)*. *See* MPEP 409.03(d).

Applicant must present a copy of the application papers to the inventor.

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A review of the oath or declaration filed with the instant petition reveals that the citizenship of inventor Dew is missing from the declaration. An oath or declaration that includes the inventor's citizenship 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: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Timothy Breeden and Doug Dew	:	PETITIONS UNDER
Application No. 10/733,989	:	37 CFR 1.181
Filed: December 11, 2003	:	AND REFUSING
Title of Invention:	:	STATUS UNDER
SYSTEM AND METHOD FOR SOFTWARE	:	37 CFR 1.47(a)
APPLICATION DEVELOPMENT IN A PORTAL	:	
ENVIRONMENT	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a) to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s), and the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a). Both petitions were filed November 9, 2005. The three (3) month extension of time request is hereby granted.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.47(a) is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", 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).

Background

The above-identified application was filed on December 11, 2003, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application

(hereinafter "Notice"), on April 27, 2004, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant filed a petition on September 30, 2004 under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventors.

In support of the petition the Applicant filed a Declaration Under 37 CFR §1.47 on Behalf of Signing Inventors in Support of Petition to Accept Declaration in Response to a Missing Parts Without the Signature of a Joint Inventor, executed by Karl F. Kenna, wherein Mr. Kenna declared that formal papers, "namely a Declaration for Patent Application and an Assignment" were sent to the nonsigning inventor via email and via Federal Express, and have not been returned. Kenna Declaration at p.2.

The petition was dismissed in a decision mailed October 25, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.47(a). Applicant was advised that "[b]efore an inventor can refuse to sign an oath or declaration, he must have been *presented with a copy of the application papers (specification, claims and drawings)*. *See* MPEP 409.03(d)." October 25, 2004 Decision Dismissing Petition at pp.2-3. Applicant was further advised that "Applicant must present a copy of the application papers to the inventor." Id.

Finally, the petition noted that the "[a] review of the oath or declaration filed with the instant petition reveal[ed] that the citizenship of inventor Dew [wa]s missing from the declaration. An oath or declaration that includes the inventor's citizenship is required." October 25, 2004 Decision Dismissing Petition at p.3.

The April 27, 2005 Request for Reconsideration

Applicant filed a Request for Reconsideration on September 30, 2005, and provided that Applicant learned of inventor Dew's new home address "in Champaign, Illinois, and subsequently Applicant's attorney sent a follow-up letter via FedEx. Copies of the letter and tracking receipt showing delivery on August…27, [2]004 [we]re attached…." Reconsideration Request at p.3.

A review of the letter revealed that the letter referenced the Declaration and Assignment in the first paragraph, and stated that "[for your convenience, we are enclosing another set of documents…." The letter then requested, in the second paragraph, that Applicant review the Declaration and Assignment and execute the documents. The third paragraph requested a return of the original documents in a self-addressed envelope provided by Applicant. There was no mention in the letter that a copy of the above-identified application had been included with the letter.

Applicant further provided that several emails were sent to inventor Dew; however, Applicant learned after the last of the emails had been sent, that "the host name could not be found." Reconsideration Request at p.3.

Applicant concluded with the assertion that a diligent effort has been made in an attempt to contact inventor Dew. Reconsideration Request at p.4.

Applicant also filed several copies of the oath/declaration; however, none of the Declarations were been corrected to include the citizenship of the nonsigning inventor.

The Request for Reconsideration was dismissed in a Decision mailed June 6, 2005. Applicant was advised that (1) he must demonstrate that he has presented a copy of the application papers to the inventor, and (2), that an oath or declaration that includes the inventor's citizenship is required.

This Office subsequently mailed a Notice of Abandonment on September 8, 2005, informing Applicant that the application was held abandoned for failing to timely and properly reply to the June 6, 2005 Decision dismissing the Reconsideration Request.

Petition to Withdraw Holding of Abandonment

Applicant petitions to withdraw the holding of abandonment and asserts that the maximum extendable period for reply has not yet expired.

Applicant is correct. The June 6, 2005 Decision dismissing the Reconsideration Request provided for extensions of time under 37 CRR 1.136(a). As such, Applicant was given five (5) months

of extensions of time, in addition to the two (2) month period for reply set forth in the Decision. Applicant's second Request for Reconsideration was filed November 9, 2005, and includes the fee for a three (3) month extension of time. Accordingly, the petition is timely filed and the holding of abandonment is improper.

Accordingly, the holding of abandonment is hereby **withdrawn**.

The instant second Request for Reconsideration

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2).

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A review of the oath or declaration filed with the instant petition reveals that it is unexecuted. The citizenship of inventor(s) must be provided in the oath or declaration under 37 CFR 1.63. Accord 37 CFR 1.63 and MPEP 601(I). Applicant has yet to file an oath or declaration executed by the available inventors with the signature block of the nonsigning inventor left blank. Accord 37 CFR 1.47(a) and MPEP 409.03. The executed oath/declaration filed with the instant petition is unexecuted.

An oath or declaration, executed by the available inventor(s) with the signature block of the nonsigning inventor left blank, that includes the inventor's citizenship is required[1].

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[1] When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inven-tor(s), then the party with sufficient proprietary interest must

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 facsimile: (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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sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

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P.O. BOX 1450
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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

COPY MAILED
MAY 31 2006
OFFICE OF PETITIONS

In re Application of	:	
Timothy Breeden and Doug Dew	:	
Application No. 10/733,989	:	
Filed: December 11, 2003	:	DECISION GRANTING
Title of Invention:	:	STATUS UNDER
SYSTEM AND METHOD FOR SOFTWARE	:	37 CFR 1.47(a)
APPLICATION DEVELOPMENT IN A PORTAL	:	
ENVIRONMENT	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a) to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Doug Dew, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mr. DOUG DEW
2545 WEST SPRINGFIELD
APT. 6
CHAMPAIGN, IL 61821

COPY MAILED
MAY 31 2006
OFFICE OF PETITIONS

In re Application of	:	
Timothy Breeden and Doug Dew	:	
Application No. 10/733,989	:	
Filed: December 11, 2003	:	LETTER
Title of Invention:	:	
SYSTEM AND METHOD FOR SOFTWARE	:	
APPLICATION DEVELOPMENT IN A PORTAL	:	
ENVIRONMENT	:	

Dear Mr. Dew:

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) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Jing C. Chang	: DECISION ON REQUEST FOR
Patent Number	: 7578957	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/733,998	: OF WYETH
Filed	: 12/10/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-08

SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
John G. Nunan	:	
Application Number: 10/734014	:	DECISION ON PETITION
Filing Date: 12/11/2003	:	
Attorney Docket Number:	:	
034166.053	:	

This is a decision on the petition filed on December 6, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 1, 2007, for failure to file a response to the non-final Office action mailed on May 30, 2007, which set a three (3) month shortened statutory period for reply. A one (1)-month extension of the time for reply in accordance with 37 CFR 1.136(a) was filed on September 27, 2007. The filing of the present petition precedes the mailing of Notice of Abandonment.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the Statement Under 37 CFR 3.73(b) filed on November 9, 2007, is acknowledged. The revocation and power of attorney filed on October 25, 2007, has been accepted.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three (3)-month extension request filed on December 6, 2007, was submitted more than three (3) months after the end of the period for reply to the Office action mailed on May 30, 2007, and therefore is unnecessary. The extension of time fee will be refunded.

Receipt of the amendment filed with the present petition is acknowledged.

The application is being referred to Technology Center Art Unit 1795 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

Encl:

Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/734,014	12/11/2003	John G. Nunan	DP-311313

CONFIRMATION NO. 2369

POA ACCEPTANCE LETTER

25461
SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

OC000000027704877

Date Mailed: 01/15/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/diwood/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/734,014	12/11/2003	John G. Nunan	DP-311313

CONFIRMATION NO. 2369

POWER OF ATTORNEY NOTICE

22851
DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

OC000000027704862

Date Mailed: 01/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2007.

- 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).

/diwood/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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Donald W. Huntley
1105 N. Market Street
P.O. Box 948
Wilmington, DE 19899-0948

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Aoki, et. al.	:	DECISION ON REQUEST
Application No. 10/734,021	:	TO WITHDRAW FROM
Filed: December 10, 2003	:	RECORD
Attorney Docket No. Hokushin-6	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 27, 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, "the responsible attorney for the parent cases in Japan has asked that I turn prosecution over to Mr. Brian Gomez", 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 address until otherwise notified by applicant.

There is an outstanding Office action mailed March 27, 2006 that requires a reply from the 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: GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON, DE 19806

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Lukas Eisermann	: DECISION ON REQUEST FOR
Patent Number	: 7569074	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/734,041	: OF WYETH
Filed	: 12/11/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Helmut JERG et al.	:	DECISION ON PETITIONS
Application No. 10/734,054	:	UNDER 37 CFR 1.183 AND
Filed: December 10, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P13009WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/06518, filed June 13, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2836 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions 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	DRAWINGS	TOT CLMS	IND CLMS
10/734,054	12/10/2003	2836	900	2001P13009WOUS	1	10	1

CONFIRMATION NO. 9082

CORRECTED FILING RECEIPT

OC000000019347875

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 06/20/2006

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)

Helmut Jerg, Giengen, GERMANY;
Stefan A. Staedel, Pfafenhofen, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/06518 06/13/2002

Foreign Applications

GERMANY 10130608.3 06/26/2001
If Required, Foreign Filing License Granted: 03/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/734,054

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fire protection device for domestic appliances

Preliminary Class

361

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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ANTHONY J. JANIUK
WATERS CORPORATION
LEGAL DEPARTMENT
34 MAPLE STREET
MILFORD MA 01757

COPY MAILED

JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Bateman et al	:	
Application No. 10/734,055	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 03-MM-03 85.80038/006	:	

This is a decision on the petition, filed May 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2881 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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Alexandria, VA 22313-1450
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ANTHONY J. JANIUK, ESQ.
WATERS CORPORATION
LEGAL DEPARTMENT
34 MAPLE STREET
MILFORD MA 01757

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JUN 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Robert H. Bateman et al	:	
Application No. 10/734,055	:	ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 03-MM-03	:	
85.80038/006	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 7, 2005, and resubmitted on June 9, 2006, and on June 13, 2006, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on August 9, 2005, with the issue fee being due on or before November 9, 2005. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of August 9, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2881 for appropriate processing of the RCE filed November 7, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 07/05/05

DATE : 6-27-2005

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6,870,695 10/734,058

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

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

MAGDALENE TALLEY

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. Not

☐ **Denied** — State the reasons for denial below.

Comments: According to approved Examiner's Amendt:
1) Col 3, line 28: After "disposed", delete "between the window and" and insert —outside—
2) Col 4, line 8: After "path", delete "between the window and" and insert —outside—
3) Col 4, lines 31, 35: delete "arcomat", insert —achromat—

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

2872
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,870,695 B2

DATED : March 22, 2005

INVENTOR(S) : Joseph B. Slater and Kevin L. Davis

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 3, line 28, after the word disposed delete "between the window", and insert --outside--.

Column 4, line 8, after the word path delete "between the window", and insert --outside--.

Column 4, lines 31 and 35 delete "arcomat", insert --achromat--.

for correct changes, see Comments section

LB

MAILING ADDRESS OF SENDER: John G. Posa, Reg. No. 37,424
Gifford, Krass et al.
2701 Troy Center Drive, Suite 330
P.O. Box 7021
Troy, MI 48007-7021

PATENT NO. 6,870,695

No. of additional copies

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LAW OFFICES OF JOHN E. WAGNER
3541 OCEAN VIEW BOULEVARD
GLENDALE CA 91208

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OFFICE OF PETITIONS

In re Reissue Application No 10/734,073 :
Filed: December 12, 2003 :
Original Patent No. 6,327,497 B1 :
Issue Date: December 4, 2001 :
Patentee: Kirchgeorg et al. :
Attorney Docket No.: 005471.00002

ON PETITION

This is a decision on the petition filed May 3, 2004, under 37 CFR 1.182 (see MPEP 1441) by a protestor, requesting that the normal two month period for filing a protest after publication of a reissue application in the Official Gazette be excused,.

The petition is dismissed as immaterial.

The above-captioned reissue application was published in the Official Gazette of March 9, 2004, such that a protest to be considered timely was presumably to have been filed by May 9, 2004. Petitioner (Xycarb Ceramics) is in litigation with patentee, and asserts that he only recently became aware of this reissue application, and at the time the petition was filed was contemplating the filing of both a protest herein and a request for reexamination. Inspection of the record reveals that a protest was filed herein by facsimile transmission on May 10, 2004, but one day past the supposed time limit for filing a protest. That same inspection further reveals that the examiner has not yet acted on the reissue application.

As indicated in MPEP 1441.01, where, as here, the two month period has expired before the protest is filed, but, also as here, the reissue application is not, at the time the protest is filed, then under a final rejection or prosecution has otherwise been closed, a petition under 37 CFR 1.182 is not required to have the protest considered. Indeed, a protest will be considered by the examiner without the need for a petition under 37 CFR 1.182 up to close of prosecution. See MPEP 1444.01.

This reissue application is being referred to the Technology Center for any appropriate action in due course

On a one time basis, counsel for protestor who filed the petition is being provided a courtesy copy of this decision. The USPTO will not further correspond with protestor in this matter.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
JOHN E WAGNER
LAW OFFICES OF JOHN E WAGNER
3541 OCEAN VIEW BOULEVARD
GLENDALE, CA 91206

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LAW OFFICES OF JOHN E. WAGNER
3541 OCEAN VIEW BOULEVARD
GLENDALE CA 91208

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AUG 17 2004

OFFICE OF PETITIONS

ON PETITION

In re Reissue Application No 10/734,073 :
Filed: December 12, 2003 :
Original Patent No. 6,327,497 B1 :
Issue Date: December 4, 2001 :
Patentee: Kirchgeorg et al. :
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RECEIVED
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Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
JOHN E WAGNER
LAW OFFICES OF JOHN E WAGNER
3541 OCEAN VIEW BOULEVARD
GLENDALE, CA 91206

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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BURNES DOANE SWECKER & MATHIS, LLP (For Patent Owner)
P.O. BOX 1404
Alexandria, VA 22313-1404

Sadao Kinashi (For Requester #1)
WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 Connecticut Avenue, N.W.
Suite 700
Washington, DC 20036

John E. Wagner (For Requester #2)
Law Offices of John E. Wagner
3541 Ocean View Boulevard
Glendale, CA 91208

MAILED
APR 07 2005
REEXAM UNIT

In re reissue application of
Degner et al.
Application No. 10/734,073
Filed: December 12, 2003
For: U.S. Patent No. 5,074,456

In re Degner et al.
Reexamination Proceeding
Control No. 90/007,027
Filed: May 4, 2004
For: U.S. Patent No. 5,074,456

In re Degner et al.
Reexamination Proceeding
Control No. 90/007,114
Filed: July 8, 2004
For: U.S. Patent No. 5,074,456

DECISION MERGING REEXAMINATION AND REISSUE PROCEEDINGS

The above-identified reissue application and reexamination proceedings are before the Office of Patent Legal Administration for consideration of whether the proceedings should be merged at this time.

REVIEW OF FACTS

1. U.S. Patent No. 5,074,456 issued to Degner et al., on December 24, 1991.

2. Patent owner filed a reissue application based on the '456 patent, on December 12, 2003, which was assigned Application No. 10/734,073. In a preliminary amendment filed with the reissue application, claims 18 and 33 were amended.

3. Notice of the filing of the '073 reissue application was published in the *Official Gazette* on March 9, 2004.

4. Reexamination of the '456 patent was requested by a third party requester on May 4, 2004, and the resulting reexamination proceeding was assigned Control No. 90/007,027.

5. Reexamination of the '456 patent was requested by another third party requester on July 8, 2004, and the resulting reexamination proceeding was assigned Control No. 90/007,114.

6. Reexamination was ordered in the '7027 proceeding on July 23, 2004.

7. On August 23, 2004, a paper waiving the right to file a patent owner's statement under 37 C.F.R. 1.530, was filed in the '7027 proceeding.

8. Also on August 23, 2004, a Notification of Concurrent Proceedings under 37 C.F.R. 1.565(a) and Request for Consolidation under 37 C.F.R. 1.565(c), was filed in the '7114 proceeding, and in the '073 reissue application.

9. Reexamination was ordered in the '7114 proceeding on September 21, 2004.

DISCUSSION REGARDING MERGER

Under 37 C.F.R. § 1.565(d):

> (d) If a reissue application and a reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings....

As evidenced by the above review of facts, the reissue application and the two reexamination proceedings are currently pending. Since the Orders have been mailed pursuant to § 1.525 in both the '7027 and '7114 reexamination proceedings, a decision under § 1.565(d) is timely.

The general policy of the Office is that examination of reissue and reexamination proceedings will not be conducted separately and at the same time for a single patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the multiple proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of all of the proceedings. In making a decision on whether or not to merge the multiple proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

A review of the prosecution history of the '7027 and '7114 reexamination proceedings shows that original patent claims 1-36 are pending in each reexamination proceeding.

A review of the reissue (Application No. 10/734,073) prosecution history shows that the reissue application was published in the *Official Gazette* on March 9, 2004. In the reissue application, patent owner has amended claims 18 and 33. Therefore, the claims are **not** identical in all three proceedings.

In order to provide efficient and prompt handling of all three proceedings, and to prevent inconsistent and possibly conflicting amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and the two reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and both

of the reexamination proceedings will be conducted in accordance with the decision set forth below.

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-identified reissue and two reexamination proceedings are merged. A joint examination will be conducted in accordance with the guidelines and requirements which follow.

II. Requirement for Same Amendments in All Three Proceedings

The patent owner is required to maintain identical amendments in the reissue application and both of the reexamination files for purposes of the merged proceeding. The maintenance of identical amendments in all three files is required as long as the proceedings remain merged. See 37 C.F.R. § 1.565(d). As noted above with regard to the amendments submitted, the claims are NOT the same in all three files. **An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in all three cases**, specifically, Application No. 10/734,073, and Control Nos. 90/007,027 and 90/007,114. The response to the requirement must be limited to placing the same amendments in all three cases, and patent owner must **not** address the issues of any of the proceedings in the housekeeping amendment. The housekeeping amendment should be submitted as a single paper, including the identifying data for all three files (*i.e*, the reissue Application No. and the two reexamination proceeding Control Nos.) and a signature, and should be filed in triplicate for entry into each of the reissue and two reexamination files.

It should be noted that the housekeeping amendment for the merged proceeding should be provided in the proper format for reissue applications. **Amendments in a reissue application must be in compliance with 37 C.F.R. § 1.173,** therefore all amended claims should contain bracketing and underlining with regard to the original patent text pursuant to 37 C.F.R. § 1.173(b)(2), (d) and (g) and all new claims must be completely underlined pursuant to

37 C.F.R. § 1.173(b)(2) and (d)(2). Please be aware that a "clean copy" of the amendment is **not** required by this rule. **Note that amendment practice pursuant to 37 C.F.R. § 1.121 does <u>not</u> apply to reissue applications, as specifically indicated in 37 C.F.R. § 1.121(a) and (i), and therefore "Revised Amendment Practice" does not apply to reissue applications.** Therefore, the required housekeeping amendment must be in compliance with 37 C.F.R. § 1.173, *e.g.*, all amended claims should contain bracketing and underlining with regard to the original patent text pursuant to 37 C.F.R. § 1.173(b)(2), (d) and (g).

III. <u>Conduct of the Merged Reissue and Reexamination Proceedings</u>

Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. § 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue application, examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding.

Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the two reexamination proceedings. Each action will contain identifying data *for all three of the cases, i.e*, the reissue application and both of the reexamination proceedings. Each action will be entered into all three files (which will be maintained as separate files).

Any response by the applicant/patent owner must consist of a single response, with **three copies being filed** for entry in all three files, with each of the three copies bearing a signature, and containing identifying data for <u>all three</u> of the cases (*i.e*, the reissue Application No. and both of the reexamination proceeding Control Nos.).

If the reissue application ultimately matures into a reissue patent, the reexamination proceedings shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 C.F.R. § 1.570. See MPEP 2285.

If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved as to the

will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved as to the reissue application. With respect to the two merged reexamination proceedings, the Commissioner will proceed to issue a reexamination certificate under § 1.570 in accordance with the last action of the Office, unless further action is clearly needed in the merged reexamination proceedings as a result of the difference in rules relating to reexamination and reissue proceedings.

If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 C.F.R. § 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding as to the reissue application, and continue examination as to the two merged reexamination proceedings. Any grounds of rejection which are not applicable under reexamination would be withdrawn (*e.g.*, based on public use or sale), and any new grounds of rejection which are applicable under reexamination (*e.g.*, improperly broadened claims) would be made by the examiner upon dissolution of the reissue application from the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution of the reissue application from the merged proceeding would be noted by the examiner as not being proper under reexamination pursuant to 37 C.F.R. § 1.552(c).

If applicant/patent owner files a Request for Continued Examination (RCE) of the reissue application under 37 C.F.R. § 1.114, the reissue application is not considered to be expressly abandoned; rather the finality of the Office action is withdrawn, and the merged proceeding will continue. This is so, because an RCE is not an abandonment of any application, whether it be a reissue application or a non-reissue application.

CONCLUSION

1. The above-identified reissue application and two reexamination proceedings **ARE MERGED** into a single consolidated proceeding.

2. The reissue application file and the two reexamination files are being forwarded to the Group Director of Technology

Center 1700. All further examination should be conducted in accordance with this decision.

3. Pursuant to Part II of this decision, a housekeeping amendment is required **within ONE (1) MONTH of this decision**, placing the same amendments in all three cases of the present merged proceeding, which amendment must be in compliance with 37 C.F.R. § 1.173.

4. The examiner should issue an Office action for the present merged proceeding of the reissue application and the two reexamination proceedings **after** the earlier of the following events have occurred:

   (a) the submission of the housekeeping amendment to place the same amendments in all three cases; or

   (b) the expiration of the ONE (1) month period from the mailing of this decision for filing the amendment.

5. It should be noted that failure to submit an appropriate "housekeeping amendment" **within <u>one month</u> of this decision** placing the same amendments in all three files will result in the Office's rejection of any claim that does not contain identical text in all three merged proceedings under 35 U.S.C. § 112, second paragraph, as being indefinite as to the content of the claim, and therefore failing to particularly point out the invention.

6. All further examination should be conducted in accordance with Parts II and III of this decision.

7. Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-7722.

Lynn M. Kryza
Senior Patent Special Projects Advisor
Office of Patent Legal Administration

April 5, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Chad A. Reese	:	
Application No. 10/734,097	:	DECISION ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. EURO-246	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 3, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 3, 2007. Accordingly, the date of abandonment of this application is April 4, 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 $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

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

Date : November 1, 2007

Patent No. : 7269878 B2
Application No : 10/734097
Inventor(s) : Reese
Issued : Sep. 18, 2007
Title : **STEAM STOP FOR STEAM CLEANER**
Docket No. : EURO-246(086084.014100)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

CBN/eme

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Alexandria, VA 22313-1450
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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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JUN 2 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Daniel Brun-Buisson et al :
Application No. 10/734,107 :
Filed: December 15, 2003 :
Attorney Docket No. 1435-140-1 :

This is a decision on the petition, filed June 27, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
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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POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of :
In-taek Han :
Application No. 10/734,136 : DECISION ON PETITION
Filed: December 15, 2003 :
Attorney Docket No. 030681-605 :

This is a decision on the petition filed May 19, 2006, which is being treated as a petition to withdraw the holding of abandonment for the above-identified application.

On January 31, 2006, the Office mailed a final Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application became abandoned on August 1, 2006, subsequent to the filing of this petition.

In the present petition, the practitioner stated that he did not receive the final Office action and requested that the Office restart the period for reply.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the final Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication 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 MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the

non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant the withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the final Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the final Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2879 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office Action. The three (3) month shortened statutory time period for responding to the final Office Action will be set to run from the mailing date of the new final Office Action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BELLSOUTH CORPORATION
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 19 2006
OFFICE OF PETITIONS

In re Application of :
Meadows et al. :
Application No. 10/734,171 : ON PETITION
Filed: December 15, 2003 :
Title of Invention: :
METHOD AND SYSTEM FOR MONITORING :
VEHICULAR TRAFFIC USING A :
WIRELESS COMMUNICATIONS NETWORK :

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed March 9, 2006. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed October 6, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on January 7, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Applicant has submitted the issue fee.

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Cc: MERCHANT & GOULD, P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 12 2005
OFFICE OF PETITIONS

Applicant: Mougin
Appl. No.: 10/734,181
Filing Date: December 15, 2003
Title: HAIR-COSMETIC COMPOSITION COMPRISING AT LEAST ONE FILM-FORMING GRADIENT COPOLYMER, AEROSOL COMPOSITION COMPRISING THE COSMETIC COMPOSITION AND METHOD FOR TREATING HAIR USING THE COMPOSITION
Attorney Docket No.: 05725.1303
Pub. No.: US 2004/0180019 A1
Pub. Date: September 16, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on November 16, 2004 for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors wherein some of the text is repeated on pages 6, 20, 22 and 24 of the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor wherein some of the text that appears before and after the drawings in the specification is repeated in the pre-grant publication are Office errors but they are clearly understandable to one of ordinary skill in reading the specification and the claims. The mistakes are minor errors, as some of the text is simply just repeated, thus the specification is clearly understandable from reading the specification. The mistakes do 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 rights that an applicant may seek to enforce upon issuance of a patent.

[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).

Furthermore, this is a not material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be 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 Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:
Browne, et al.	: DECISION ON PETITION
Application No. 10/734,222	:
Filed: December 15, 2003	:
Dkt. No.: 00169.002800	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 7, 2008.

The Notice of Abandonment, mailed January 8, 2008, states the application is abandoned for failure to timely submit a proper reply to the non-final Office action mailed July 3, 2007. The non-final Office action set a three month shortened statutory period of time for reply.

Petitioners assert that a response to the non-final Office action, including petition for extension of time, was timely filed January 3, 2008.

The original response referenced by petitioners has been located in the application file. The response was received January 7, 2008 and bears a certificate of mailing date of January 3, 2008, in accordance with 37 CFR 1.8.

Accordingly, 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

19 MAY 2010

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of MÖLLER et al.	:	
Application No.: 10/734,223	:	DECISION ON PETITION
Filing: 15 December 2003	:	
Attorney Docket No.: 10760.0001-00000	:	UNDER 37 CFR 1.78(a)(3)
For: METHOD AND ELECTRODE FOR	:	
DEFINING AND REPLICATING STRUCTURES	:	
IN CONDUCTING MATERIALS		

This is a decision on Petitioner's "Petition for Acceptance of an Unintentionally Delayed Priority Claim", filed 19 March 2010. The petition is treated under 37 CFR 1.78(a)(3)to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/SE02/01179 filed on 17 June 2002.

At the time of filing the present application, applicant did not make a proper claim for domestic priority. Thus, the filing of a petition under 37 CFR 1.78(a)(3) is necessary. Such petition is hereby **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where

there is a question whether the delay was unintentional.

The 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 an adequate 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. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant 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 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 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 inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being returned to Technology Center AU 1795 for further processing.

/Bryan Lin/

Bryan Lin

Legal Examiner

Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Yang and Chih	:	
Application No. 10/734,229	:	DECISION REFUSING STATUS
Filed: 15 December, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 3319-0110P	:	

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 15 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 15 December, 2003, with a declaration naming Pang-Lun Yang and Ting-Hui Chih as joint inventors and signed by joint inventor Chih on behalf of himself and joint inventor Yang. The present petition was also filed on 15 December, 2003.

Petitioners assert that the non-signing inventor was contacted by telephone and refused to sign the declaration. Petitioners further assert that the non-signing inventor requested that the application papers not be sent to him.

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[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not provided proof that Yang was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] It is noted that the declaration of Yu-Hui Sung states that the non-signing inventor requested that the application papers not be sent to him. Notwithstanding Sung's declaration, however, in order for a Rule 47 petition to be granted, the inventor **must** be afforded an opportunity to review the application.[3] Therefore, petitioners should sent a copy of the application papers to Yang's last known address. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application 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

---

[2] MPEP 409.03(d).

[3] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

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PO BOX 747
FALLS CHURCH VA 22040-0747

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JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Yang and Chih	:	
Application No. 10/734,229	:	DECISION ACCORDING STATUS
Filed: 15 December, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 3319-0110P	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 2 June, 2004.

The petition is **GRANTED**.

The above-identified application was filed on 15 December, 2003, with a declaration naming Pang-Lun Yang and Ting-Hui Chih as joint inventors and signed by joint inventor Chih on behalf of himself and joint inventor Yang. The petition filed on 15 December, 2003, was dismissed on 2 April, 2004.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Pang-Lun Yang. However, the non-signing inventor has refused to sign the declaration listing him as a joint inventor along with Ting-Hui Chih.

In accepting the present petition, the Office is construing the declaration of Yu Hui Sung to mean that a copy of the application papers was sent to non-signing inventor Yang. Petitioners **must** inform the Office if this is an incorrect interpretation.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Gil U. Lee et al. :
Application No. 10/734,241 : ON PETITION
Filed: December 15, 2003 :
Attorney Docket No. NC 95,996 :

This is a decision on the petition filed April 6, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned March 8, 2006 for failure to timely pay the issue fee on or before March 7, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JUL 25 2005
OFFICE OF PETITIONS

In re Application of
Fukazawa and Minami
Application No. 10/734,291
Filed: December 15, 2003
Attorney Docket No. 246507US90

DECISION GRANTING PETITION

This is a decision on the petition filed December 13, 2004, requesting that the above-identified application be accorded a filing date of December 15, 2003.

On December 15, 2003, the above-identified application was filed. On October 13, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because drawings were not deposited with application but appeared to be required for the understanding of the invention claimed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

On December 13, 2004, petitioner filed the instant petition, a copy of the drawings, and an Office date-stamped postcard acknowledging receipt of 15 sheets of drawing on December 15, 2003.

Upon review of the record, the drawings were not located among the original application papers. The evidence is convincing, however, that 15 sheets of drawing accompanied the original application papers. Therefore, the application was complete on filing and entitled to a filing date of December 15, 2003.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with the presently accorded filing date of December 15, 2003.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PA
TENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed : April 27, 2007
Patent No. :7,095,069 B2
Ser. No. : 10/7342940.
Inventor(s) : Seon Yong Cha
Issued :August 22, 2006
Title: MAGNETORESISTIVE RANDOM ACCESS MEMORY, AND MANUFACTURING METHOD THEREOF

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: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Magdalene Talley
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116 or 125

Heller Ehman LLP
1717 Rhode Island Avenue, NW
Washington, DC 20036

CBN/mt

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

AUG 0 8 2005

OFFICE OF PETITIONS

Applicant: Mougin
Appl. No.: 10/734,301
Filing Date: December 15, 2003
Title: COSMETIC OR DERMATOLOGICAL COMPOSITION COMPRISING AT LEAST ONE GRADIENT COPOLYMER, MAKEUP COMPRISING THE COSMETIC OR DERMATOLOGICAL COMPOSITION AND COSMETIC METHOD USING THE COMPOSITION
Attorney Docket No.: 05725.1324
Pub. No.: US 2004/0191199 A1
Pub. Date: September 30, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on November 29, 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 is republished.

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

FINNEGAN | FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
WWW.FINNEGAN.COM

FACSIMILE TRANSMITTAL

TO

Name: Examiner Shiao
Company: U.S. Patent and Trademark Office
Fax Number: 571.273.0707
Subject: U.S. Patent Application 10/734,301

Date: June 18, 2009
Phone Number: 571.272.0707
Total Pages (including cover): 7
Confirmation Copy to Follow: No

FROM

Name: Kimberly D. Smith
Phone Number: 202.408.4265

Verified by: K. Smith/MD700
Our File No.: 05725.1324-00000

CERTIFICATE OF TRANSMISSION UNDER 37 CFR § 1.8

I hereby certify that the attached Submission of Corrected Drawings is being submitted by facsimile transmission to the U.S. Patent and Trademark Office on June 5, 2009.

By: Kimberly D. Smith
Kimberly D. Smith
Reg. No. 63,219
Tel.: 202-408-4265

If there is a problem with this transmission, notify the sender at the number above.

This facsimile is intended only for the individual to whom it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If you have received this facsimile in error, please notify the sender immediately by telephone (collect), and return the original message by first-class mail to the address below.

901 NEW YORK AVENUE, NW | WASHINGTON, DC 20001-4413
PHONE: 202.408.4000 | FAX: 202.408.4400

PATENT
Attorney Docket No. **05725.1324-00000**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Nathalie MOUGIN	Group Art Unit: 1626
Application No.: 10/734,301	Examiner: SHIAO, Rei Tsang
Filed: December 15, 2003	
For: COSMETIC OR DERMATOLOGICAL COMPOSITION COMPRISING AT LEAST ONE GRADIENT COPOLYMER, MAKEUP COMPRISING THE COSMETIC OR DERMATOLOGICAL COMPOSITION AND COSMETIC METHOD USING THE COMPOSITION	Confirmation No.: 2481

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Entered 6/18/09 R.S.

Sir:

SUBMISSION OF CORRECTED DRAWINGS

Further to the telephone conversations with Examiner Shiao on May 14, and June 3, 2009, and in reply to the Office Communication mailed May 21, 2009, Applicant encloses herewith four (4) corrected drawing replacement sheets corresponding to the drawings located at pages 43, 44, 48, and 54 of the as-filed specification. In the Office Communication, the Office required a description of the drawings on pages 9, 13, 43, 44, 49, and 54 under 37 C.F.R. § 1.81. In the telephone interview with Examiner Shiao on May 14, 2009, the Examiner and Applicant's representatives agreed that there was

sufficient description for the drawings located on pages 9 and 13, and thus, corrected figures did not need to be submitted for these pages. With respect to the drawings located on pages 43, 44, 48, and 54, Applicant submits herewith the appropriate replacement sheets, which include sufficient description for each drawing (i.e., labels for the "x" and "y" axes). No new matter has been added by the labeling. Accordingly, Applicant thus respectfully requests that the corrected drawing replacement sheets be entered.

In the Office Communication, claim 78 is objected to as containing a typographical error. In the telephone interview with Examiner Shiao on June 3, 2009, the Examiner stated that he would correct the typographical error, and that Applicant was not required to submit an amendment.

If for any reason the corrected drawing replacement sheets do not comply with the pertinent statutes and regulations, please so advise Applicant's representatives.

If there is any fee due in connection with the filing of this paper, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 18, 2009

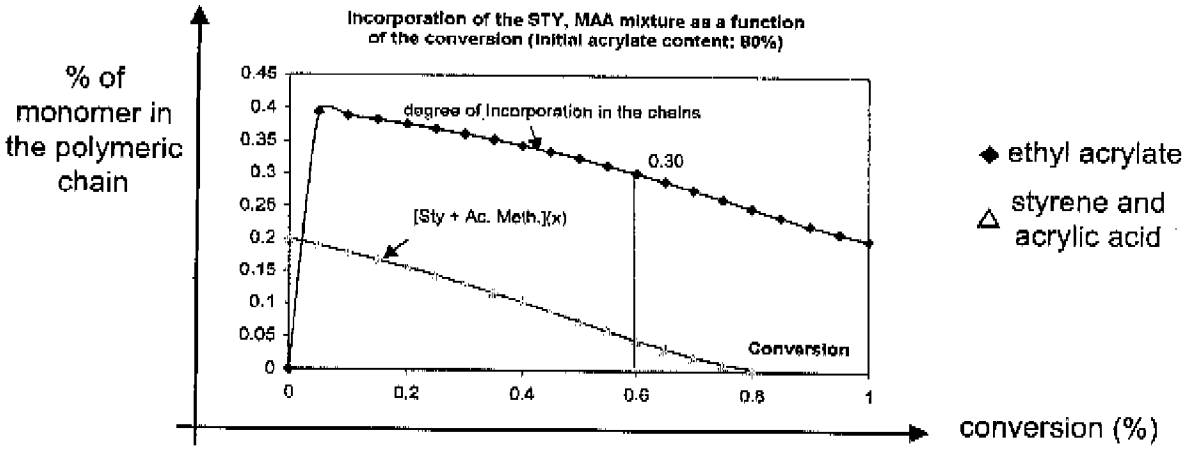
By: Kimberly D. Smith
Kimberly D. Smith
Reg. No. 63,219

Attachments: Four (4) pages of corrected drawing Replacement Sheets corresponding to the drawings located at pages 43, 44, 48, and 54

PAGE 3/7 * RCVD AT 6/18/2009 3:04:10 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/40 * DNIS:2730707 * CSID:2024084400 * DURATION (mm-ss):01-28

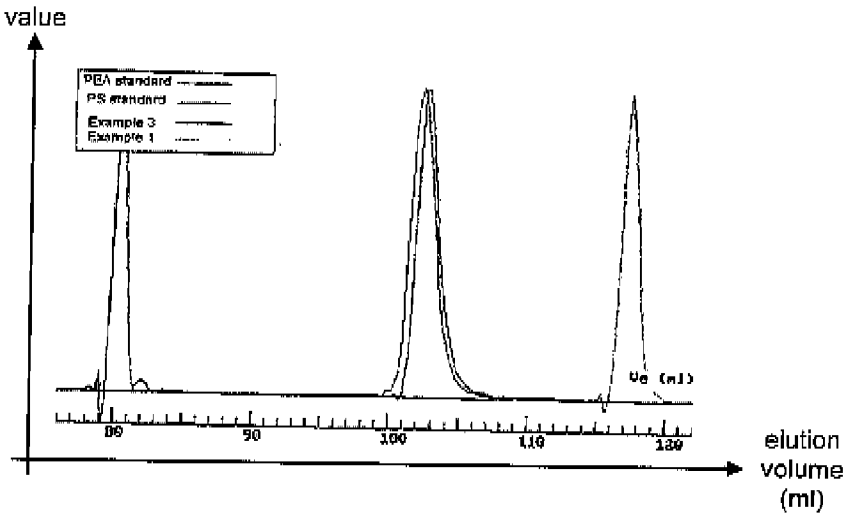
[0155] The validity of this model was provided by monitoring the relative concentrations of the three monomers by gas chromatography and NMR analysis of the polymers.

[0156] Using these methods, it was found that at 60% conversion, the final chemical composition of the copolymer was as follows (wt%): 68.4% ethyl acrylate, 16.1% styrene and 15.5% methacrylic acid according to NMR on the calculated curve (69%).



[0157] Using LAC, the trace of the polymer showed the low polydispersity of the chemical composition of the chains.

PAGE 4/7 * RCVD AT 6/18/2009 3:04:10 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/40 * DNIS:2730707 * CSID:2024084400 * DURATION (mm-ss):01-28



[0158] Measurement of the molecular weights by steric exclusion chromatography lead to the following results:

[0159] Mn was equal to 32,140 g/mol and Mw was equal to 51,700 g/mol, hence the polydispersity index Ip was equal to 1.6.

[0160] The composition dispersity (or w) was 1.6.

[0161] The following was a possible schematic representation of the copolymer that was obtained:

wherein the darkened units denote the styrene/methacrylic acid linkages, and the white units denote the ethyl acrylate linkages.

Example 2: Bulk synthesis of gradient copolymer

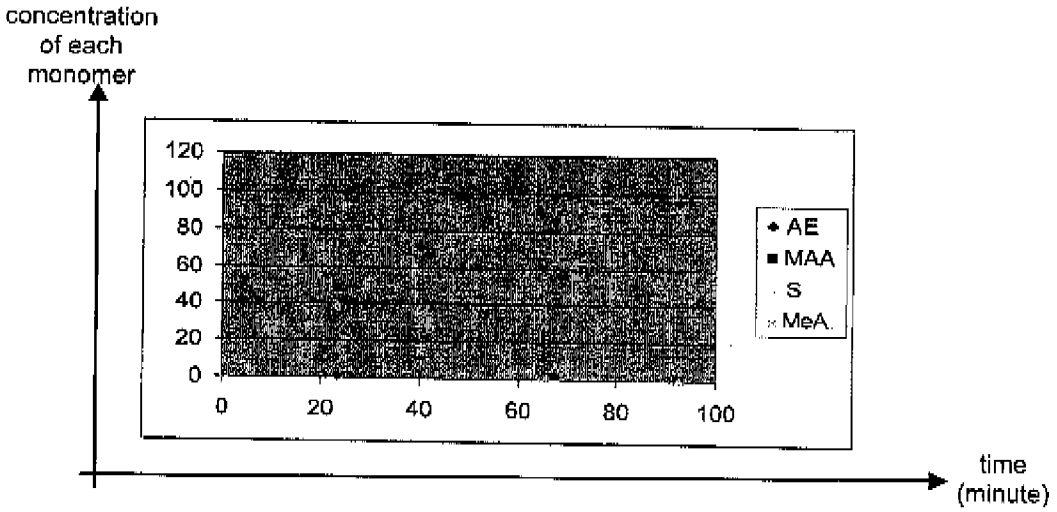
[0162] Following the procedure described in example 1, various copolymers were prepared from the following mixture of reactants:

PAGE 5/7 * RCVD AT 6/18/2009 3:04:10 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/40 * DNIS:2730707 * CSID:2024084400 * DURATION (mm-ss):01-28

- EA: ethyl acrylate
- MeA: methyl acrylate
- S: styrene
- MAA: methacrylic acid

* the total residual content was calculated taking into account the solvent, quantified by the solids content.

[0174] It was noted that each monomer was present throughout the reaction. The gradient determined for each monomer could then be calculated, and gave the following curves:

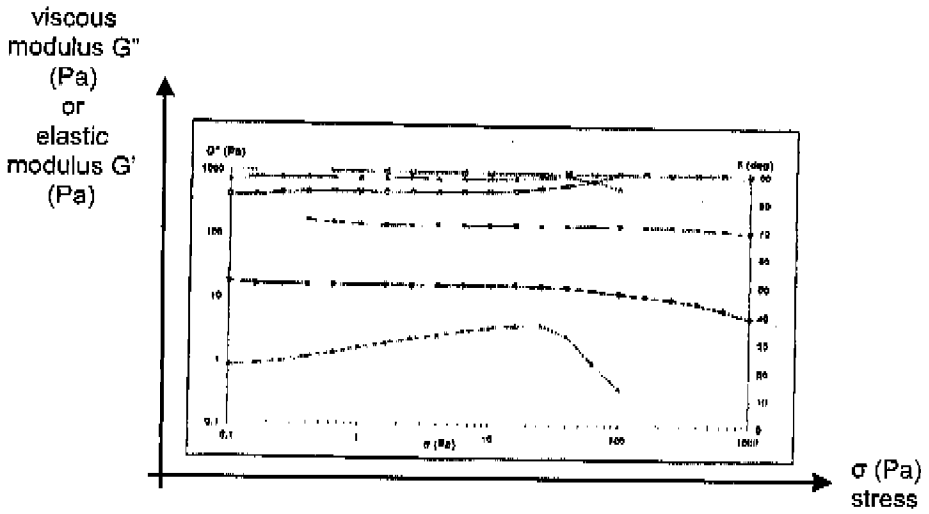


[0175] The final composition of the copolymer was as follows:

- ethyl acrylate: 34% by weight
- methyl acrylate: 34% by weight
- styrene: 16% by weight
- methacrylic acid: 16% by weight

PAGE 6/7 * RCVD AT 6/18/2009 3:04:10 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/40 * DNIS:2730707 * CSID:2024084400 * DURATION (mm-ss):01-28

[0193] Thus, a system obtained with a gradient copolymer, even when used at high concentration, was thinner (low viscosity at rest) than that obtained with a chemically equivalent diblock, used at a far lower concentration.



PAGE 7/7 * RCVD AT 6/18/2009 3:04:10 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/40 * DNIS:2730707 * CSID:2024084400 * DURATION (mm-ss):01-28

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/08/10 Paper No.: _____

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10734301 Patent No.: 7632873

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1626 **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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OFFICE OF PETITIONS

Connolly Bove Lodge & Hutz, LLP
P.O. Box 2207
Wilmington, DE 19899

In re Application of	:	
Charles F. Harris Jr. et al.	:	
Application No. 10/734,322	:	DECISION ON PETITION
Filed: December 12, 2003	:	TO WITHDRAW
Attorney Docket No. 11755-00001-US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 20, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Patricia Smink Rogowski on behalf of all attorneys of record who are associated with Customer No. 23416.

All attorneys/agents associated with the Customer No. 23416 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 January 8, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Charles Harris Jr.**
3207 Stonebridge Blvd.
New Castle, DE 19720

cc: **Wristband Enterprises LLC**
20 Christian Woods Court
Newark, DE 19702

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HUNTLEY, L.L.C.
DONALD W. HUNTLEY
1105 N. MARKET STREET
P.O. BOX 948
WILMINGTON DE 19899-0948

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Harris et al. :
Application Number: 10/734322 : DECISION ON PETITION
Filing Date: 12/12/2003 :
Attorney Docket Number: HARRIS-2 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on April 21, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover

[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)).

letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on September 12, 2007, for failure to timely file a proper reply to the non-final Office action mailed on June 11, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 19, 2007.

The petition is dismissed because it does not comply with 37 CFR 1.137(b)(3), which 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. The statement in the petition does not track the language stipulated in the rule. A statement of unintentional delay in accordance with the rule must be provided with any renewed petition.

37 CFR 1.137(b)(3) states that the Director may required additional information where there is a question whether the delay was unintentional. Petitioner's statement that the delay "resulted from litigation between the applicants" raises a question as to whether the delay was, in fact, unintentional. Specifically, it is unclear whether petitioners were legally precluded from filing a reply, or simply chose not to file a reply until they were assured that they would obtain or retain ownership of the application for patent.

Therefore, petitioners should explain the circumstances under which the delay occurred.

As stated in MPEP 711.03(c):

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

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

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United States Patent and Trademark Office
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1105 N. MARKET STREET
P.O. BOX 948
WILMINGTON DE 19899-0948

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OFFICE OF PETITIONS

In re Application of	:	
Harris et al.	:	
Application Number: 10/734322	:	DECISION ON PETITION
Filing Date: 12/12/2003	:	
Attorney Docket Number: HARRIS-2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on August 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 12, 2007, for failure to timely file a proper reply to the non-final Office action mailed on June 11, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time

---

[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)).

under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 19, 2007. On April 21, 2009, a petition under 37 CFR 1.137(b) was filed. On June 4, 2009, the petition was dismissed.

Receipt of the reply to the non-final Office action filed on April 21, 2009 is acknowledged.

Petitioner has submitted the required petition fee on April 7, 2009, and stated 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 application is referred to Technology Center Art Unit 3677 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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6601 KOLL CENTER PARKWAY
SUITE 245
PLEASANTON, CA 94566

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OFFICE OF PETITIONS

In re Application of
Anthony K. Hedley, et al.
Application No. 10/734,330
Filed: December 11, 2003
Attorney Docket No. OR-002

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 21, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 27, 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 February 17, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being referred to Technology Center Art Unit 3739 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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ARTHUR J. BEHIEL
SILICON EDGE LAW GROUP LLP
6601 KOLL CENTER PARKWAY
SUITE 245
PLEASANTON, CA 94566

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of
Anthony K. Hedley, et al.
Application No. 10/734,330
Filed: December 11, 2003
Attorney Docket No. OR-002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 12, 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, "I no longer represent these clients", 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.

The application became abandoned for failure to timely pay the issue fee and publication fee indicated in the Notice of Allowance and Fee(s) due mailed March 23, 2006.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: HENRY FLETCHER
4952 WINDPLAY DRIVE
SUITE C
EL DORADO HILLS, CA 95762

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Clark & Elbing LLP
101 Federal Street
Boston, MA 02110

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In re Application of	:	
Arthur Michaelis	:	
Application No. 10/734,338	:	DECISION ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 50150/054002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 15, 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 December 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Office action, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1623 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

cc: David Bradin
P.O. Box 14329
Research Triangle Park, NC 27709

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PATTI & BRILL
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

In re Application of Abdolloahi, Giles, Guffey, Liu, Roche, and Sites Application No.: 10/734,358 Filed: December 12, 2003 Attorney Docket No: NGC-145/000312-040 For: AUTOMATED INSPECTION OF PACKAGING MATERIALS FOR PACKAGE INTEGRITY	: : : DECISION ACCORDING : RULE 47(a) STATUS :

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 19, 2004.

The renewed 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 12, 2003, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on March 22, 2004, requiring a properly executed declaration and payment of a surcharge for the late filing of the same.

Petitioner has shown that inventor Abdollahi has refused join the above-identified application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be 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

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ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Abdollahi et al. :
Application No. 10/734,358 : ON PETITION
Filed: December 12, 2003 :
Attorney Docket No. NGC-145/000312-040 :

This decision concerns the June 29, 2004 "Petition under 37 CFR 1.47 Filing When an Inventor Refuses to Sign or Cannot be Reached" which, supplemented on July 30, 2004, is being properly treated as a petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Seven inventors are named in this application which was filed with an unsigned declaration.

On March 22, 2004, a "Notice to File Missing Parts of Nonprovisional Application" ("March 22, 2004 Notice") was mailed, setting forth an extendable, non-statutory, 2-month period for submitting a properly signed oath or declaration.

On May 24, 2004 (Certificate of Mailing date May 21, 2004), a declaration signed by 6 of the 7 inventors was filed.

On June 4, 2004, a "Notice of Incomplete Reply (Nonprovisional)" was mailed, indicating that the signature of inventor Mohsen Abdollahi ("Abdollahi") was missing, and stating that the reply period for responding to the March 22, 2004 Notice remained that set forth in that Notice.

The instant petition, accompanied by a request for a 2-month extension of time and the extension-of-time fee, asserts that Abdollahi refused to sign the application declaration.

The available inventors may file the application on behalf of themselves as well as Abdollahi, provided that a *bona fide* attempt has been made to present to Abdollahi, for review and signature, a copy of the entire application (specification including claims; drawings), and that the latter refuses to join in this application.[1]

---

[1] MPEP section 409.03(d) (Rev. 2, May 2004).

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To show that Abdollahi has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, concerning the circumstances of presentation of the application papers to Abdollahi at his last known address,[2] and his subsequent refusal.

The petition encloses an affidavit of counsel's Office Administrator (supplemented on July 30, 2004), stating that she has sent Abdollahi, in an e-mail attachment on December 10, 2003, a complete copy of the application (specification including claims; drawings); and that Abdollahi later called and informed her that he would not join in this application. While the application papers were not sent to Abdollahi's last known address, they were apparently received by Abdollahi through the e-mail. Moreover, Abdollahi's last known address is provided in the petition. The Office concludes that a *bona fide* attempt has been made to present Abdollahi with a copy of the entire application, and that the latter refused to join in.

However, the May 24, 2004 "Declaration and Power of Attorney" lists the 7 inventors on separate pages and, as signed and presented, evidently is a composite one.[3] In other words, each inventor appears to have been presented only the page containing his signature block for signing, and was not shown either the page identifying the application or claimed invention, or the inventive entity. Therefore, the declaration is defective for non-compliance with 37 CFR 1.63(a) and (b). This declaration is thus not accepted and the petition is dismissed.

To prevent abandonment of this application,[4] a renewed §1.47(a) petition (no fee) must:

-be filed within **TWO MONTHS** of the mailing date of this decision;[5]
-include an oath/declaration properly signed by all inventors except Abdollahi;[6] and

should be addressed to:

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[2] 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 2, May 2004).

[3] For example, page 8 consists of the information for only the 6th inventor, is signed by him, but is the only notarized page.

[4] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[5] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[6] If the 6 available inventors are not in the same geographical location, it is acceptable to submit 6 complete copies of oath/declaration, each listing the application and/or claimed invention and the entire inventive entity, but only signed by 1 inventor.

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Finally, the $130 surcharge for lacking a proper oath or declaration upon filing of the application was charged to Deposit Account No. 50-1941 on May 24, 2004. The duplicate charge to the deposit account processed on June 30, 2004 has been reversed.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,366	12/12/2003	Gerard R. Lazo	0094.03	2526

25278 7590 08/06/2008
USDA-ARS-OFFICE OF TECHNOLOGY TRANSFER
PATENT ADVISORS OFFICE
WESTERN REGIONAL RESEARCH CENTER
800 BUCHANAN ST
ALBANY, CA 94710

EXAMINER
KIM, PAUL

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
08/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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USDA-ARS-Office of Technology Transfer
Patent Advisor Office
Western Regional Research Center
800 Buchanan Street
Albany, CA 94710

In re Application of:
Gerard R. LAZO et al.
Application No. 10/734,366
Filed: December 12, 2003
For: COMPUTER DISPLAY TOOL FOR VISULAIZING RELATIONSHIPS BETWEEN AND AMONG DATA

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on 12 December 2003, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 1-6 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and was filed with three (3) sets of color drawings of Figures 1-6. Paragraph [0016] of the specification did contain the required notification described above.

The petition is **GRANTED**.

Vincent N. Trans, SPRE/QAS 2100
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3613

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ALBANY CA 94710

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OFFICE OF PETITIONS

In re Application of	:	
Gerard R. LAZO et al.	:	
Application No. 10/734,366	:	DECISION ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. **0094.03**	:	

This is a decision on the petition, filed February 11, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is "The Regents of the University of California" and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to "The Regents of the University of California".

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

The form PTO/SB/44 was not submitted with the petition.

A review of Office database assignment records reflects that an assignment to The Regents of the University of California has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that The Regents of the University of California was an assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

Inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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WESTMAN, CHAMPLIN & KELLY, P.A.
900 SECOND AVENUE SOUTH, SUITE 1400
MINNEAPOLIS, MN 55402

In re Application of:
Weiss, Joel et al
Application Serial No.: 10/734,377
Filed: December 12, 2003
For: **MINIMIZED SKEW ANGLE SLIDER**

DECISION
ON PETITION

This is a decision on the petition to vacant the final Office action filed August 22, 2008, pursuant to 37 CFR § 1.181 and also on the petition to withdraw an outstanding restriction requirement filed July 28, 2008, pursuant to 37 CFR § 1.144.

Background

A restriction requirement was mailed on August 7, 2006 setting forth 14 different independent or distinct species with claims 1, 2 and 24-28 identified as generic.

An interview summary between the examiner and the attorney of record was conducted on September 6, 2006. A general discussion of the election of species requirement was discussed.

A response to the restriction requirement was timely filed and received in the Office on September 11, 2006 (including Certificate of Mailing dated September 7, 2006), where applicants elected to prosecute species 8, as identified in the restriction requirement as corresponding to figure 13, with traverse. Applicants identified claims 3-12 and 30-32 clearly readable on figure 13, but argued that claims 13-23, 29 and 33-40 were addressed to the same inventive concept as species 8 and were plainly and eminently compatible with the explicit depiction of species 8 in figure 13, and were therefore readable on species 8. Also, applicants argued that all claims 1-40 be examined together since these claims overlapped in scope, and search and examination could be made without serious burden.

A non-final Office action was mailed on November 22, 2006, where the Office action acknowledged the election with traverse of the species of figure 13 including claims 1-12, 24-28 and 30-32 to read thereon and addressed the attorney's arguments. The examiner addressed that the species of elected figure 13 clearly limited to the features of air bearing surface. The claims did not have overlapping scope since all sliders were associated with some suspension, and conversely, all suspensions were associated with some sliders. Furthermore, clearly there was a serious burden on the examiner with 14 different species. Claims 13-23, 29 and 33-40 were being withdrawn from further consideration to 37 CFR 1.142(b) as being drawn to non-elected species. The Office action also indicated the prior restriction requirement was made final.

A response to the non-final Office action was filed and received on April 26, 2006, where applicants acknowledged the restriction requirement being made Final.

A final Office action was mailed on July 27, 2007; then applicants followed with a request for continued examination filed September 26, 2007 including an amendment to generic claims 1, 27 and 28.

A non-final Office action was mailed December 4, 2007 addressing the merit of the newly amended claims 1, 27 and 28 along with claims 2-12, 24-26 and 30-32 and indicating claims 13-23, 29 and 33-40 were withdrawn from consideration.

A response to the non-final Office action was filed on March 4, 2008 including further amendment to generic claims 1 and 27.

A final Office action was mailed May 28, 2008, where the Office action stated the newly amended claims 1 and 27 are directed to the non-elected species. The Office action further stated the amended phrase as set forth in the amended claims 1 and 27 were withdrawn from consideration as being directed to a non-elected invention.

Petitioner seeks relief by filing a petition under 37 CFR §1.144 on July 28, 2008 requesting that the restriction requirement be withdrawn, then followed with a petition under 37 CFR § 1.181on August 22, 2008 requesting to vacant the final Office action.

Opinion

Petitioner contends that the restriction requirement made in the August 7, 2008 Office action was improper, for at least the reason that the restriction had improperly identified figures 9 and 10 as separate independent or distinct species 4 and 5, where these figures were merely a top plan view and a side plan side of the same embodiment, showing the same features. Thus, these species were not independent or distinct inventions as set forth in MPEP 800. Petitioner also contends that the final rejection was premature in that the claim amendment filed March 4, 2008 did not constitute a shifting to non-elected subject matter.

A review of the record finds that applicants have persuasively argued the restriction requirement failed to show different distinct species as set forth in MPEP 800.

For the above stated reasons, the petition to withdraw the restriction requirement is **GRANTED**. Thus, the restriction requirement is hereby withdrawn.

Accordingly, the petition to vacant the final Office action mailed May 28, 2008 is also **GRANTED** in view of the withdrawn of the restriction requirement. The final Office action mailed May 28, 2008 is hereby vacated.

The application file is being forwarded to the examiner for preparation of a new and appropriate action, including a revised restriction requirement if improper, in due course.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

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SEAGATE TECHNOLOGY LLC
C/O WESTMAN, CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3244

Mail Date: 04/21/2010

Applicant	: Joel R. Weiss	: DECISION ON REQUEST FOR
Patent Number	: 7652847	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/734,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **960** 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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RICHARD M. KLEIN, ESQ.
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND, OH 44114-2579

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OFFICE OF PETITIONS

In re Application of
Satchidanand Mishra, et al.
Application No. 10/734,380
Filed: December 12, 2003
Attorney Docket No.: D/A2582XERZ200610

ON PETITION

This is a decision on the petition, filed February 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1756 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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RICHARD M. KLEIN, ESQ.
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND OH 44114-2579

In re Application of	:	
Mishra et al.	:	
Application No. 10/734,380	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. D/A2582 XERZ 2	:	
00610	:	
Title: Imaging Member Having A Dual Charge Transport Layer		

This is a decision on the petition under 37 CFR 1.182, filed on February 2, 2006, to change the name of the co-inventors for the above-identified application.

The petition is **GRANTED**.

The name of the sixth co-inventor will be changed from "Geoff Foley" to **–Geoffrey M.T. Foley–** and "Jack Yanus" to **– John F. Yanus–** .

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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RICHARD M. KLEIN, ESQ.
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND OH 44114-2579

In re Application of	:	
Mishra et al.	:	
Application No. 10/734,380	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. D/A2582 XERZ 2	:	
00610	:	
Title: Imaging Member Having A Dual Charge Transport Layer		

This is a decision on the petition under 37 CFR 1.182, filed on February 2, 2006, to change the name of the co-inventors for the above-identified application.

The petition is **GRANTED**.

The name of the sixth co-inventor will be changed from "Geoff Foley" to **–Geoffrey M.T. Foley–** and "Jack Yanus" to **– John F. Yanus–** .

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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JUN 3 0 2006
OFFICE OF PETITIONS

In re Application of :
Alton Hugh Phillips :
Application No. 10/734,396 : ON PETITION
Filed: December 12, 2003 :
Attorney Docket No. NIKOP062

This is a decision on the petition, filed June 29, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Park et al.	:	
Application No. 10/734,405	:	DECISION ON PETITION
Filed: December 11, 2003	:	
Attorney Docket No. 51876P439	:	
	:	

This is a decision on the petition under 37 CFR 1.10(c), filed February 6, 2004, requesting that the above-identified application be accorded a filing date of December 11, 2003, rather than the presently accorded filing date of December 12, 2003. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

Petitioner asserts that the application was deposited in Express Mail service on December 11, 2003. In support of the assertion, the petition is accompanied by a copy of Express Mail label No. EV339920113US. The Express Mail label indicated the "date-in" as December 11, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

This Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to December 11, 2003, and mail a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ISHIMARU & ZAHRT LLP
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE, CA 94087

In re Application of
Fan Zhang, et al.
Application No. 10/734,423
Filed: December 12, 2003
Attorney Docket No. CS2003/026

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 13, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before March 21, 2007. On April 13, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 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

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of
Prashant Iyer, et al.
Application No. 10/734,431
Filed: December 12, 2003
Attorney Docket No. 10150.200-US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 23, 2005.

The application became abandoned for failure to pay the issue fee on or before November 18, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is GRANTED.

The application is being referred to the Office of Publications.

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
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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BAKER BOTTS LLP
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON, TX 77002

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JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Frank Gersemsky et al	:	
Application No. 10/734,441	:	DECISION ON PETITION
Filed: December 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 068758.0149	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/DE02/02064, filed June 6, 2002 set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

Best Available Copy

The instant pending application was filed on December 12, 2003, and was pending at the time of filing of the instant 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).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and (365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

It is noted that petitioner's amendment submitted with the instant petition improperly claims under the section for domestin priority benefit to foreign Application No. DE 10130797.7. Nevertheless, benefit of the aforementioned foreign application was properly placed under the section for priority, and, therefore, will only be entered as such in Office records.

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 applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 2631 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/DE02/02064, filed June 6, 2002.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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MICHAEL A. NELSON
TEKTRONIX, INC.
14150 SW KARL BRAUN DRIVE
P.O. BOX 500, M/S 50-LAW
BEAVERTON OR 97077

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of	:
Que Thuy Tran et al	:
Application No. 10/734,448	: DECISION GRANTING PETITION
Filed: December 12, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 7324-US	:

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance action of December 6, 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 Patent Publication.

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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JACK MATALON
ATTORNEY AT LAW
32 SHELLEY ROD.
SPRINGFIELD, NJ 07081-2529

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Vilas M. Chopdekar et al	:	
Application No. 10/734,460	:	DECISION ON PETITION
Filed: December 12, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. JFCT-1-03(CIP)	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed February 13, 2006, to make the above-identified application special based on prospective manufacture and actual infringement as set forth in M.P.E.P. § 708.02, Sections I and II.

The petition based on prospective manufacture is **GRANTED**.

The petition based on actual infringement is DISMISSED as moot since special status has been accorded to this application on other ground as addressed below.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (c) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition meets the requirements set out above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1617 for action on the merits commensurate with this decision.

Denise Pothier for
Petitions Examiner
Office of Petitions

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OCT 5 2006

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.
10/734,460	12/12/2003	Vilas M. Chopdekar	JFCT-1-03 (CIP)	9696

7590 10/04/2006

Jack Matalon
Attorney at Law
32 Shelley Rd.
Springfield, NJ 07081-2529

EXAMINER
PADMANABHAN, SREENIVASAN

ART UNIT	PAPER NUMBER
1617	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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OCT -4 2007

JACK MATALON
ATTORNEY AT LAW
32 SHELLEY RD.
SPRINGFIELD NJ 07081-2529

In re Application of	:
Vilas M. Chopdekar et al	:
Serial No.: 10/734,460	: SUSPENSION OF ACTION
Filed: December 12, 2003	:
Attorney Docket No.: JFCT-1-03	:

This is in reply to the petition under 37 CFR 1.103 to suspend action in this application at applicant's request for a period of six months, filed September 19, 2006.

BACKGROUND

Applicants request prosecution in this application be suspended for a period of up to six months in order to conduct and complete experiments designed to overcome a reference applied against the claims. Delay in conducting the experiments has been occasioned by the need to obtain approval for purchase of controlled substances used in the experiments from the Drug Enforcement Agency (DEA).

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants have replied to the best of their ability to the outstanding Office action and indicated in their response that additional testing is needed to demonstrate that the compounds taught by the references, GB '609 specifically, are different from those claimed. In order to make such demonstration the compounds of GB '609 must be prepared and in order to make such preparations specific controlled substances must be acquired. Permission to acquire research quantities of the controlled substances must be granted first by the DEA and applicants present evidence of their efforts to obtain the required permission. Applicants have shown good and sufficient cause for suspending prosecution in this application.

It is noted that this application was previously granted "special status" based on prospective manufacture. In view of the grant of suspension of prosecution the grant of "special status" is withdrawn.

DECISION

In view of the above the petition for suspension of action is **GRANTED** for a period of six months from the date of mailing of this decision.

Should applicants complete their testing prior to the expiration of the period of suspension, a submission of the results should be promptly forwarded to the Office so that prosecution may be resumed.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

FILE COPY

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

OIPE JC37
NOV 15 2004
PATENT & TRADEMARK OFFICE

Attorney Docket No. 31960.0104
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: PEMBERTON, ET AL.

Serial No.: 10/734,461

Filing Date: December 12, 2003

Title: METHOD AND DEVICE FOR PREVENTING PETS FROM CLAWING HOME FURNISHINGS

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

The undersigned hereby certifies that the following documents:

1. Petition to Make Special;
2. Statement of Applicant;
3. Check in the amount of $130.00;
4. Transmittal letter (in duplicate);
5. Certificate of Mailing; and
6. A postcard receipt.

relating to the above application, were deposited as First Class Mail with the United States Postal Service, addressed to MS PETITION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 10, 2004.

Sherry Colgrove
Mailer

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark ZDEBLICK et al.	:	
Application No. 10/734,490	:	DECISION ON PETITION
Filed: December 11, 2003	:	TO WITHDRAW
Attorney Docket No. 021308-000510US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to James M. Heslin has been revoked by the assignee of the patent application on May 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: BOZICEVIC, FIELD & FRANCIS LLP
(PROTEUS BIOMEDICAL, INC)
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/734,490	12/11/2003	Mark Zdeblick	021308-000510US

CONFIRMATION NO. 1638

OC000000020004174

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 08/14/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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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
10/734,490	12/11/2003	Mark Zdeblick	021308-000510US

CONFIRMATION NO. 1638

OC000000020004179

61487
BOZICEVIC, FIELD & FRANCIS LLP
(PROTEUS BIOMEDICAL, INC)
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 08/14/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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AUG 18 2008

In re Application of	:	
BAGLEY, Demetrius et al.	:	
Application No. 10/734,500	:	DECISION ON PETITION
Filed: December 12, 2003	:	TO WITHDRAW
Attorney Docket No. **1016760032P2**	:	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 & Foester, LLP has been revoked by the assignee of the patent application on June 03, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2006

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/734520 Patent No.: 6,966,198

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: Change occurred because of a typo during prosecution. OK to make the change.

Cheryl J. [illegible]
SPE

3744
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **AUGUST 14, 2007**

TO SPE OF : ART UNIT **1711**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/734,521** Patent No.: **7196156 B2**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 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: The request for certificate of correction under 37 CFR 1.323 has been approved (See papers 2/21/07 and 12/12/06). The allowed claims are: 1-11 and 26-46

SPE

1711
Art Unit

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AND CREW, LLP
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JUL 23 2007

OFFICE OF PETITIONS

In re Application of

GRINGERG, Oded
Application No. 10/734,549
Filed: December 11, 2003
Attorney Docket No. **017900-004210US**

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 16, 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 Philip H. Albert on behalf of all attorneys of record who are associated with customer No. 59734. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed June 28, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **ODED GRINBERG**
11/19 GOT LEVIN ST.
HAIFA, ISRAEL 32922

cc: **KURT MASCHOFF**
BUCKLEY, MASCHOFF & TALWALKER
50 LOCUST AVENUE
NEW CANAAN, CT 06840

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/734,549	12/11/2003	Oded Grinberg	017900-004210US

CONFIRMATION NO. 2433

OC000000024936096

59734
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2007.

- 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.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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James C. Wray
1493 Chain Bridge Road, Suite 300
McLean, Virginia 22101

Paper No. 07252007

In re application of
Christopher T. Evans et al.
Application No. 10/734,587
Filed: December 15, 2003
For: SINGLE DISPENSING FILM STRIP CONTAINER

: **DECISION ON PETITION**
: **REGARDING REQUEST TO**
: **WITHDRAW FINALITY**
: **UNDER 37 CFR 1.181**

This is in response to applicant's response, which is being treated as a petition under 37 CFR 1.181, filed April 26, 2007 requesting withdrawal of finality of the Office action mailed April 20, 2007 as being premature. In the future, any response should be designated as a petition for Supervisory Review, if that is the applicant's intent, to distinguish it from a request for reconsideration of the examiner.

The Petition is **GRANTED**.

Applicant alleges that the final rejection mailed April 20, 2007 is premature because the citation of a new reference, Krzyzanowski, was not necessitated by amendment of the claims.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR .97(c) with the fee set forth in 37 CFR 1.17(p).

A summary of the examiner's Office actions and of applicant's responses is as follows:

1. A first office action was mailed July 26, 2006 rejecting claims 1-10 and 15-17 under 35 USC 112, claims 1-4 under 35 USC 102(b) over Leopoldi, claims 5-10, 15-17 and 20 under 35 USC 103 over Leopoldi in view of Pollock. Furthermore, claim 1 was rejected under 35 U.S.C. 112, second paragraph, for being unclear, as to whether "a tip of the extension" recited in line 4 of claim 1 was the same as "the extension tip" recited later in the claim. Further, on page 4

of the office action, the examiner stated that the claims would be construed as the limitations referring to the same extension tip.

2. Applicant's response filed October 26, 2006, amended claim 1 to clarify that the limitations to "a tip of the extension" and "the extension tip" were in fact the same element and argued the propriety of the art rejections.

3. A second, final office action was mailed February 27, 2007, purportedly rejecting claims 1-10, 15-17 and 20 under 103 over Leopoldi in view of Pollack. However, the body of the rejection modifies a newly cited reference, Krzyzanowski, in view of Pollock.

4. On April 3, 2007 applicant filed a response pointing out the errors in the above Final rejection and requesting withdrawal of the finality of the final rejection mailed February 27, 2007.

5. The above response resulted in the examiner making a third, final office action which was mailed on April 20, 2007, clarifying and correcting mistakes in the rejection preamble of the action mailed February 27, 2007, rejecting claims 1-10, 15-17 and 20 under 103 over Kryzyzanowski in view of Pollack.

In the instant petition the applicant contends the claims were prematurely finally rejected because the citation of Kryzyzanowski was not necessitated by amendment to the claims.

After careful review of the above facts, applicant's amendment of claim 1 in the response filed October 26, 2006, merely amends the claim to include limitations or clarify limitations that would have reasonably been expected to be claimed in response to the examiners' 112 indefiniteness rejection. Furthermore, the examiner stated in the first office action that the claims were being interpreted in a manner consistent with applicant's subsequent amendment to the claims. Applicant's amendment of claim 1 neither changed the scope of the claims nor the examiner's interpretation of the claims.

Hence applicant's petition to withdraw the finality of the Office action mailed April 20, 2007 is **GRANTED**.

Accordingly, the finality of the Office action mailed April 20, 2007, but not the action itself, is hereby withdrawn. The response to the now non-final Office action of April 20, 2007, filed July 20, 2007, will be entered and forwarded to the examiner for consideration of the amendment.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

for Katherine Matecki
Director,
Technology Center 3600
(571) 272-5250

[snm/GC: 7/25/07]

SMM

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James C. Wray
1493 Chain Bridge Road, Suite 300
McLean, Virginia 22101

Paper No. 07252007

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TECHNOLOGY CENTER 3600

In re application of
Christopher T. Evans
Application No. 10/734,587
Filed: December 15, 2003
For: SINGLE DISPENSING FILM STRIP CONTAINER

: **DECISION ON PETITION**
: **REGARDING REQUEST TO**
: **WITHDRAW FINALITY**
: **UNDER 37 CFR 1.181**

This is in response to applicant's petition filed under 37 CFR 1.181 filed April 26, 2007 requesting withdrawal of finality of the Office action mailed April 20, 2007 as being premature.

The Petition is **GRANTED**.

Applicant alleges that the final rejection mailed April 20, 2007 is premature because the citation of a new reference, Krzyzanowski, was not necessitated by amendment of the claims.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR .97(c) with the fee set forth in 37 CFR 1.17(p).

A summary of the examiner's Office actions and of applicant's responses is as follows:

1. A first office action was mailed July 26, 2006 rejecting claims 1-10 and 15-17 under 35 USC 112, claims 1-4 under 35 USC 102(b) over Leopoldi, claims 5-10, 15-17 and 20 under 35 USC 103 over Leopoldi in view of Pollock. Furthermore, claim 1 was rejected under 35 U.S.C. 112, second paragraph, for being unclear, as to whether "a tip of the extension" recited in line 4 of claim 1 was the same as "the extension tip" recited later in the claim. Further, on page 4 of the office action, the examiner stated that the claims would be construed as the limitations referring to the same extension tip.

2. Applicant's response filed October 26, 2006, amended claim 1 to clarify that the limitations to "a tip of the extension" and "the extension tip" were in fact the same element and argued the propriety of the art rejections.

3. A second, final office action was mailed February 27, 2007, rejecting claims 1-10, 15-17 and 20 under 103 over Leopoldi in view of Pollack.

4. On April 3, 2007 applicant filed a petition requesting withdrawal of the finality of the final rejection mailed February 27, 2007. The petition was mistakenly treated as an after final amendment/request for reconsideration.

5. Because of this mistake, a third, final office action was mailed on April 20, 2007, clarifying and correcting mistakes in the rejection preamble of the action mailed February 27, 2007, rejecting claims 1-10, 15-17 and 20 under 103 over Kryzyzanowski in view of Pollack.

In the instant petition the applicant contends the claims were prematurely finally rejected because the citation of Kryzyzanowski was not necessitated by amendment to the claims.

After careful review of the above facts, applicant's amendment of claim 1 in the response filed October 26, 2006, merely amends the claim to include limitations or clarify limitations that would have reasonably been expected to be claimed in response to the examiners' 112 indefiniteness rejection. Furthermore, the examiner stated in the first office action that the claims were being interpreted in a manner consistent with applicant's subsequent amendment to the claims. Applicant's amendment of claim 1 neither changed the scope of the claims nor the examiner's interpretation of the claims.

Hence applicant's petition to withdraw the finality of the Office action mailed April 20, 2007 is **GRANTED**.

Accordingly, the finality of the Office action mailed April 20, 2007, but not the action itself, is hereby vacated. The response filed July 20, 2007 will be entered and forwarded to the examiner for consideration of the amendment.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

Katherine Matecki

Katherine Matecki
Director
Technology Center 3600
[KD/GC: 7/25/07]

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IMMUNOMEDICS, INC.
300 AMERICAN ROAD
MORRIS PLAINS, NJ 07950

Mail Date: 04/21/2010

Applicant	: Serengulam V. Govindan	: DECISION ON REQUEST FOR
Patent Number	: 7585491	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/734,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **208** 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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HOLLINGSWORTH & FUNK, LLC
8009 34TH AVE S.
SUITE 125
MINNEAPOLIS, MN 55425

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OFFICE OF PETITIONS

In re Application of	:	
Meyer et al.	:	
Application No. 10/734,599	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. GUID.142PA (03-100)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 22, 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 December 6, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 7, 2008. A Notice of Abandonment was mailed July 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center 3762 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Bei Chen et al.	:	
Application No. 10/734,606	:	DECISION ON PETITION
Filed: December 11, 2003	:	TO WITHDRAW
Attorney Docket No. ABGX-007	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 31, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Carol L. Francis 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 Charles Smoot at 571-272-3299.

David Buqci
Petitions Examiner
Office of Petitions

Cc: BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, California 94303

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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of
Jayashankar Bharadwaj, et al.
Application No. 10/734,627
Filed: December 12, 2003
Attorney Docket No. 042390.P17845

ON PETITION

This is a decision in response to the petition, filed May 3, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 19, 2006. A Notice of Abandonment was mailed on April 4, 2007. In response, on May 3, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 2181 for consideration of the amendment filed May 3 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GREGORY D. GALDWELL
BLAKELY SOKOLOFF TAYLOR AND ZAFMAN LLP
12400 WILSHIRE BLVD, 7TH FLOOR
LOS ANGELES, CA 90025

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P. O. BOX 89626
SIOUX FALLS SD 57109

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OFFICE OF PETITIONS

In re Application of	:	
Michael H. Goff	:	
Application No. 10/734,633	:	DECISION ON PETITION
Filed: December 15, 2003	:	
Attorney Docket No. FRA3320	:	

This is decision on the petition under 37 CFR 1.181, filed January 19, 2006, to withdraw the holding of abandonment in the above-identified application.

On May 25, 2005, the Office mailed a Notice of Allowability, which set a statutory period of three months to submit corrected drawings. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on November 21, 2005.

In the present petition, petitioner asserted that the Office issued the Notice of Abandonment in error because petitioner mailed corrected drawings to the USPTO with the Notice of Allowance and a certificate of mailing on August 22, 2005. With the petition, petitioner submitted one sheet of corrected drawings and a copy of the certificate of mailing dated August 22, 2005, which listed the following items: the application number, "2 pages NOA, 1 check, 1 page Corrected Drawings."

A review of the record indicates that the USPTO received a Fee(s) Transmittal and a copy of the Notice of Allowance on August 25, 2005; however, the file does not contain any corrected drawings. Therefore, petitioner is relying on the certificate of mailing as evidence of the timely filing of the corrected drawings on August 22, 2005.

Pursuant to Section 711.03(c)(I)(B) of the Manual of Patent Examining Procedure:

> 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).

Petitioner did not provide a statement under 37 CFR 1.8(b)(3), attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing **by the person who signed the certificate.**

Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. Before the Office can withdraw the holding of abandonment, petitioner must submit a request for reconsideration and a statement in compliance with 37 CFR 1.8(b)(3). A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of
Michael H. Goff
Application No. 10/734,633
Filed: December 15, 2003
Attorney Docket No. FRA3320

DECISION ON PETITION

This is decision on the petition under 37 CFR 1.181, filed January 19, 2006, to withdraw the holding of abandonment in the above-identified application.

On May 25, 2005, the Office mailed a Notice of Allowability, which set a statutory period of three months to submit corrected drawings. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on November 21, 2005.

In the present petition, petitioner asserted that the Office issued the Notice of Abandonment in error because petitioner mailed corrected drawings to the USPTO with the Notice of Allowance and a certificate of mailing on August 22, 2005. With the petition, petitioner submitted one sheet of corrected drawings and a copy of the certificate of mailing dated August 22, 2005, which listed the following items: the application number, "2 pages NOA, 1 check, 1 page Corrected Drawings."

A review of the record indicates that the USPTO received a Fee(s) Transmittal and a copy of the Notice of Allowance on August 25, 2005; however, the file does not contain any corrected drawings. Therefore, petitioner is relying on the certificate of mailing as evidence of the timely filing of the corrected drawings on August 22, 2005.

Pursuant to Section 711.03(c)(I)(B) of the Manual of Patent Examining Procedure:

> 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).

Petitioner did not provide a statement under 37 CFR 1.8(b)(3), attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing **by the person who signed the certificate.**

Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. Before the Office can withdraw the holding of abandonment, petitioner must submit a request for reconsideration and a statement in compliance with 37 CFR 1.8(b)(3). A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

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OFFICE OF PETITIONS

In re Application of :
Michael H. Goff :
Application No. 10/734,633 : DECISION ON PETITION
Filed: December 15, 2003 :
Attorney Docket No. FRA3320 :

This is decision on the renewed petition under 37 CFR 1.181, filed March 20, 2006, to withdraw the holding of abandonment in the above-identified application.

On May 25, 2005, the Office mailed a Notice of Allowability, which set a statutory period of three months to submit corrected drawings. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on November 21, 2005.

In the present petition, petitioner asserted that the Office issued the Notice of Abandonment in error because petitioner mailed corrected drawings to the USPTO with the Notice of Allowance and a certificate of mailing on August 22, 2005. With the petition, petitioner submitted one sheet of corrected drawings and a copy of the certificate of mailing dated August 22, 2005, which listed the following items: the application number, "2 pages NOA, 1 check, 1 page Corrected Drawings."

A review of the record indicates that the USPTO received a Fee(s) Transmittal and a copy of the Notice of Allowance on August 25, 2005; however, the file does not contain any corrected drawings. Therefore, petitioner is relying on the certificate of mailing as evidence of the timely filing of the corrected drawings on August 22, 2005.

Pursuant to Section 711.03(c)(I)(B) of the Manual of Patent Examining Procedure:

> 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).

In the present petition, petitioner provided a statement under 37 CFR 1.8(b)(3) by Jason Wormstadt, attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing.

Accordingly, the petition to withdraw the holding of abandonment is **granted**. The application will return to pending status.

This matter is being referred to the Office of Patent Publication.

Telephone inquiries related 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

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WASHINGTON DC 20005

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In re Application of :
Todd A. Kuhn :
Application No. 10/734,645 :
Filed: December 15, 2003 :
Attorney Docket No. 2030.0030001/EJK :

This is a decision on the petition, filed February 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 January 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 3714 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).

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-20-06

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/734645 Patent No.: 7037223 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Should Claims be entered as requested? Thanks

E.J.
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

[signature] 3711

SPE **Art Unit**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Confirmation No.: 9037
Kuhn	Art Unit: 3714
Patent. No.: 7,037,223 B2	Examiner: J. Ricci
Issued: May 2, 2006	Atty. Docket: 2030.0030001
For: **Broadhead Arrowhead**	

Request for Certificate of Correction Under 37 C.F.R. § 1.322

Attn: Certificate of Correction Branch

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

It is hereby requested that a Certificate of Correction under 37 C.F.R. § 1.322 be issued for the above-captioned United States Patent. This Certificate of Correction is being requested due to mistakes which appear in the printed patent. These mistakes were made by the U.S. Patent and Trademark Office.

Specifically, the printed patent contains the following errors for which a Certificate of Correction is respectfully requested:

In column 7, lines 7-9, claim 26 should be deleted because it is duplicate with claim 25.

In column 6, line 38, independent claim 13 in the Application (per Applicant's Reply under 37 C.F.R. § 1.111 dated 16th June, 2005 and the following Notice of Allowance dated 24th June 2005), was omitted. Accordingly, the claims 14-25 and 27-28 should be replaced with the correct listing of claims as follows:

- - 14. A broadhead arrowhead comprising:

a ferrule; and

a blade assembly coupled to and extending outwardly from said ferrule in two directions diametrically opposite each other about the longitudinal axis of said ferrule, said blade assembly having an air-foil type shape comprising:

a first substantially planar blade portion disposed in a plane at least substantially parallel to the longitudinal axis of said ferrule and

two second portions, wherein said second portions are each disposed at an angle to the plane of said first planar portion and said second portions are also disposed at an angle to the longitudinal axis of said ferrule;

wherein said second portions are both generally continuously curved and are both angled relative to said first planar portion in the same rotational direction; and

wherein said first portion of said blade assembly is coupled to said ferrule.

15. An arrowhead according to claim 14, comprising means for mounting said arrowhead to an arrow shaft.

16. An arrowhead according to claim 15, wherein said arrowhead mounting means comprises a stub member extending from one end of said ferrule substantially coaxial with the longitudinal axis of said ferrule.

17. An arrowhead according to claim 14, wherein one end portion of said said first blade portion is tapered substantially to a point.

18. An arrowhead according to claim 14, wherein said second portion is disposed at an angle of between about 5° and about 25° relative to the plane of said first substantially planar portion.

19. An arrowhead according to claim 14, wherein said second portion has a length of between about 20% and about 50% of the overall length of said blade assembly.

20. An arrowhead according to claim 14, wherein said second blade portion has a radius of curvature between about 0.2" and 0.5".

21. An arrowhead according to claim 14, wherein said second portion has a trailing edge region disposed at an angle to said ferrule.

22. An arrowhead according to claim 21, wherein said trailing edge region is disposed at an angle to said ferrule in the range of about 5 degrees and about 45 degrees.

23. An arrowhead according to claim 22, wherein said trailing edge region is disposed at an angle to said ferrule in the range of about 5 degrees and about 35 degrees.

24. An arrowhead according to claim 14, further comprising at least one bleeder blade which includes a second bleeder blade portion disposed at an angle relative to the major plane of said first blade portion.

25. An arrowhead according to claim 24, wherein said second bleeder blade portion is disposed at an angle to said ferrule in the range of about 30 and about 70 degrees.

26. An arrowhead according to claim 25, wherein said second bleeder blade portion is disposed at an angle to said ferrule in the range of about 45 and about 60 degrees.

27. An arrowhead according to claim 14, wherein said first substantially planar blade portion has at least one cutout section therein to permit air to pass therethrough.

28. An arrowhead according to claim 27, wherein said first substantially planar blade portion has a plurality of cutout sections therein to permit air to pass therethrough. - -

Remarks

The above-noted corrections do not involve such changes in the patent as would constitute new matter or would require reexamination. A completed Form PTO/SB/44 accompanies this request, with the above-noted corrections printed thereon. Accordingly, a Certificate of Correction is believed proper and issuance thereof is respectfully requested. No fee is required because this was a mistake of the U.S. Patent and Trademark Office. The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Edward J. Kessler
Attorney for Patentee
Registration No. 25,688

Date: 19 June 2006

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

545244v1

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

Constellation Law Group, PLLC
P.O. Box 220
Tracyton, WA 98393

Mail Date: 05/17/2010

Applicant	: William D. Hillis	: DECISION ON REQUEST FOR
Patent Number	: 7644183	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/734,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1656** 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

THE MCCALLUM LAW FIRM, LLC
132 KOLAR COURT
ERIE, CO 80516

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas B. Kent et al :
Application No. 10/734,651 :
Filed: December 12, 2003 :
Attorney Docket No. FERX.2C1CP1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 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 June 15, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 16, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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 matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Jennifer M. McCallum
The McCallum Law Firm
685 Briggs Street
Erie, CO 80516

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O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH, CA 92660

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Foerster et al.	:	
Application No. 10/734,671	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No.	:	
032,290-112	:	

This is a decision on the Petition Under 37 CFR 1.78(a)(3) for Acceptance of Delayed Priority, filed January 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior filed nonprovisional applications set forth in the amendment filed with the petition. The delay in treating this petition is regretted.

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 the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other

requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

It is noted that the amendment filed with the petition claims priority from the above-identified application as a continuation of prior application serial no. 10/213.635; however, Office records reveal that the above-identified application was filed as a divisional application of 10/213,635. The amendment also claims priority from application serial no. 10/213,635, filed September 18, 2001. A review of Office records reveals that application serial no. 10/213,635 was filed as a divisional application of application serial no. 09/954,646.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek L. 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 2873 for appropriate action on the amendment filed January 30, 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 application.

Frances Hicks
Lead Paralegal
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
10/734,671	12/12/2003	3736	770	032,290-112	7	4	3

CONFIRMATION NO. 6289

CORRECTED FILING RECEIPT

OC000000020178442

34263
O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH, CA 92660

Date Mailed: 08/24/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Seth A. Foerster, San Clemente, CA;
Fred H. Burbank, San Juan Capistrano, CA;
Mark A. Ritchart, Murrieta, CA;
Elias A. Zerhouni, Baltimore, MD;

Power of Attorney:

Philip Johnson--27200
David Murphy--31125
Joseph Shirtz--31880
Verne Kreger Jr--35231
Dean Garner--35877
John Kappos--37861
Polaphat Veravanich--45179
Diane Wong--54550
Gerry Gressel--34342

Domestic Priority data as claimed by applicant

This application is a CON of 10/213,638 08/07/2002
which is a CON of 09/954,646 09/18/2001
which is a CON of 09/776,125 02/02/2001 PAT 7,044,957
which is a CON of 08/858,389 05/19/1997 PAT 6,228,055
which is a CON of 08/308,097 09/16/1994 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 02/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/734,671

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and devices for defining and marking tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

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OFFICE OF PETITIONS

In re Application of :
Jin-Hyun Choi et al :
Application No. 10/734,674 : DECISION GRANTING PETITION
Filed: December 15, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6161.0106.US :

This is a decision on the petition, filed July 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2629 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\july10\734674.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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OFFICE OF PETITIONS

Brinks Hofer Gilson & Lione
Post Office Box 10395
Chicago IL 60610

In re Patent No. 7,394,448	:	
Park et al.	:	DECISION ON
Application No. 10/734702	:	REQUEST FOR
Issue Date: July 1, 2008	:	RECONSIDERATION OF
Filed: December 11, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10125/4125	:	UNDER 37 CFR 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed September 2, 2008. This matter is being properly treated as an application for patent term adjustment in accordance with 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,394,448 on July 1, 2008. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a patent term adjustment of 578 days. Patentees argue that the patent is entitled to an adjustment of 564 days pursuant to 37 CFR § 1.703(b).

At the time of issuance, the patent was entitled to 578 days of adjustment, as reflected on the patent.

Patentee argues that the patent is entitled to an additional adjustment of 564 days in accordance with 37 CFR 1.703(b) for failure to issue the patent within three years of the date upon which the application for patent was filed.

Patentee's arguments have been carefully considered, but are not convincing.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 C.F.R. § 1.704(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 application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 U.S.C. 154(b)(1)(B), 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 Red. Reg. 21704 (April 22, 2004).

In view thereof, the instant patent is not entitled to further adjustment.

Any request for reconsideration of this decision must be submitted within two months of the mail date of the instant decision. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The required patent term adjustment application fee of $200.00 has been charged to patentee's deposit account, as authorized.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

Paper No. None

Stephen M. De Klerk
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025

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OFFICE OF PETITIONS

In re Application of
Gek Hoon Quat et al.
Application No. 10/734,710
Date of Deposit: December 12, 2003
Attorney Docket No. 006404.P013
Title: CONNECTION FOR AUDIO TRANSFER

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is a decision on the "Petition asserting submission of filing documents," filed April 12, 2004, requesting that the above-identified application be accorded a filing date of December 12, 2003, with the specification submitted with the instant petition as part of the original disclosure of the application.

The application was deposited on December 12, 2003. However, on March 30, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application – Filing Date Not Granted" (notice) stating that the application had NOT been accorded a filing date, and advising applicants that the application was deposited without a specification. The notice further indicated that a filing date would be accorded when a specification was received.

On April 12, 2004, the instant petition was filed, along with a five page specification, four pages of claims, a one page abstract, and a copy of applicants' postcard receipt acknowledging receipt of "Application – Utility (10 pgs., with cover and abstract)" in the United States Patent and Trademark Office (Office) on December 12, 2003. Applicants request that both the application and the specification submitted with the instant petition be accorded a filing date of December 12, 2003.

Upon review of the record, the above-mentioned specification has not been located among the application papers in the electronic file. However, the evidence is convincing that the application papers deposited on December 12, 2003 included an 8 page specification, a 1 page abstract, and a 1 page cover sheet, and these 10 sheets were subsequently misplaced in the Office.

Unfortunately, the specification which Petitioner has submitted with the instant petition does not match the information which he placed on his postcard. Petitioner's postcard itemizes a 10 page specification including an abstract and a cover sheet. Petitioner has submitted a 5 page specification, 4 pages of claims, and a 1 page abstract, which totals ten pages. No cover sheet has been submitted. Hence, if Petitioner were to add a cover sheet onto that which he has submitted with the instant petition, the total number of pages would be 11. It appears that Petitioner has added an extra page to the present submission.

As such, the petition is **DISMISSED**.

On renewed petition, Petitioner should explain this discrepancy.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.182." This is not a final agency action within the meaning of 5 U.S.C 704.

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[1], hand-delivery[2], or facsimile[3].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
3 (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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Stephen M. De Klerk
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of
Gek Hoon Quat et al.
Application No. 10/734,710
Filing Date: December 12, 2003
Attorney Docket No. 006404.P013
Title: CONNECTION FOR AUDIO TRANSFER

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.182

Background

This is a decision on the renewed petition under 37 C.F.R. §1.182, filed July 27, 2004, requesting that the above-identified application be accorded a filing date of December 12, 2003, with the specification submitted with the instant petition as part of the original disclosure of the application.

The application was deposited on December 12, 2003. However, on March 30, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application – Filing Date Not Granted" (notice) stating that the application had NOT been accorded a filing date, and advising applicants that the application was deposited without a specification. The notice further indicated that a filing date would be accorded when a specification was received.

On April 12, 2004, the original petition was filed, along with a five page specification, four pages of claims, a one page abstract, and a copy of applicants' postcard receipt acknowledging receipt of "Application – Utility (10 pgs., with cover and abstract)" in the United States Patent and Trademark Office (Office) on December 12, 2003. Applicants request that both the application and the specification submitted with the instant petition be accorded a filing date of December 12, 2003.

Procedural History

The original petition was dismissed via the mailing of a decision on July 2, 2004. The decision set forth that the evidence was convincing that an 8 page specification, a 1 page abstract, and a 1 page cover sheet were deposited on December 12, 2003, however:

Unfortunately, the specification which Petitioner has submitted with the instant petition does not match the information which he placed on his postcard. Petitioner's postcard itemizes a 10 page specification including an abstract and a cover sheet. Petitioner has submitted a 5 page specification, 4 pages of claims, and a 1 page abstract, which totals ten pages. No cover sheet has been submitted. Hence, if Petitioner were to add a cover sheet onto that which he has submitted with the instant petition, the total number of pages would be 11. It appears that Petitioner has added an extra page to the present submission.

Decision on the Original Petition, page 2.

The Relevant Portion 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 and Conclusion

With the renewed petition, Petitioner has asserted that only 5 pages of specification, 4 pages of claims, and a 1 page abstract were submitted on filing. As such, Petitioner states that no cover sheet was included on filing, the postcard Petitioner submitted was not accurate, and that "the

words 'cover and' as shown on the postcard...should therefore have been deleted[1]." Petitioner adds that his firm has previously "submitted applications without cover sheets accompanied by the same postcard many times in the past, and has never experienced either an application gone missing or been questioned about this discrepancy before[2]."

Regarding the contents of the postcard, since the Petitioner has set forth that the postcard does not contain correct information, the Office has no way of knowing what was submitted to the Office on filing. However, since the postcard states that 10 pages were submitted, and Petitioner has attested over his registration number that the 5 pages of specification, 4 pages of claims, and the 1 page abstract are exact copies of that which was submitted on filing, the Office must grant this petition.

As such, the petition is **GRANTED**.

Regarding Petitioner's attestation that his firm places false information on its postcards as a routine matter of course, Petitioner is advised to refrain from engaging in this practice in the future, so as to avoid encountering a similar situation down the road.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 12, 2003, using 5 the pages of specification, 4 pages of claims, and the 1 page abstract submitted with the original petition on April 12, 2004.

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 Renewed petition, page 3, paragraph number 6.
2 Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Michel Gilbert et al	:	
Application No. 10/734,719	:	NOTICE
Filed: December 11, 2003	:	
Attorney Docket No. 019633-000117US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Sean D. Solberg
DORSEY & WHITNEY LLP
Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Daniel T. Johnson, et al.	: DECISION ON PETITION
Application No. 10/734,725	: UNDER 37 CFR 1.78(a)(3)
Filed: December 12, 2003	:
Attorney Docket No. 14573.01	:

This is a decision on the petition filed on July 21, 2004, which is being treated under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is applicable to applications filed on or after November 29, 2000 and is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Further, a petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

Petitioner failed to submit an Application Data Sheet or an amendment to the first sentence of the specification following the title to include a proper reference to the prior-filed application. It is noted that the present petition states that "[a}pplicant submits herewith a Request to Amend the

Specification to incorporate the priority claim." However, no such amendment was found among the papers filed July 21, 2004.

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.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed application to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306**.

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

Karen O. Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Note 37 CFR 1.121

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SEAN D. SOLBERG
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500, 50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Daniel T. Johnson, et al.	:	
Application No. 10/734,725	:	DECISION ON PETITIONS
Filed: December 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14573.01	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition, filed November 1, 2004, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

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 Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed does not clearly state the relationship of the prior-filed applications to the instant application.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] which sets forth the relationship of the prior-filed application(s) 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 **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances Hicks
Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEAN D. SOLBERG
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500, 50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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APR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Daniel T. Johnson, et al.	:	
Application No. 10/734,725	:	DECISION ON PETITION
Filed: December 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14573.01	:	AND 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 16, 2006, and supplemented on April 10, 2007, 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 a concurrently filed amendment and Application Data Sheet (ADS).

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2143 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/734,725	12/12/2003	2143	581	14573.01	25	5

CONFIRMATION NO. 1983
CORRECTED FILING RECEIPT
OC000000023337573
OC000000023337573

Sean D. Solberg
DORSEY & WHITNEY LLP
Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498

Date Mailed: 04/11/2007

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)

Daniel T. Johnson, Medina, MN;
James W. Peterson, Lake Elmo, MN;
Robert S. McConnell, Woodbury, MN;
Frank C. Brown III, Blacksburg, VA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/433,179 12/13/2002
and is a CIP of 10/429,619 05/05/2003
which claims benefit of 60/432,120 12/09/2002
This application 10/734,725
is a CIP of 09/883,779 06/18/2001
which claims benefit of 60/212,234 06/16/2000
and claims benefit of 60/288,827 05/05/2001

Foreign Applications

If Required, Foreign Filing License Granted: 03/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/734,725

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Notification system

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 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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ERIC B. MEYERTONS
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. Box 398
AUSTIN TX 78767-0398

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of	:	
HOULE, et al.	:	
Application No. 10/734,738	:	DECISION ON PETITION
Filed: December 12, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 5053-00509	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 13, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the declaration of inventor James G. Mason, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2624 for action on the merits commensurate with this decision.

Monica A. Graves
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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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FEB 02 2007

OFFICE OF PETITIONS

In re Application of	:
Stephen E. Novak	:
Application No. 10/734,744	: DECISION GRANTING PETITION
Filed: December 12, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 14135US02	:

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 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 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 Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Jiong-Ping Lu	:	
Application No. 10/734,768	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. TI-36196	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 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 June 30, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 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), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Pursuant to petitioner's authorization, Deposit Account No. 20-0668 was charged $1,500.00 for the petition to revive an unintentionally abandoned application.

This matter will be referred to Technology Center AU 2822.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 18 2005

Director's Office
Group 3700

Mr. Gene Scott
Patent Law & Venture Group
3140 Red Hill Avenue
Suite 150
Costa Mesa, CA 92626-3440

In re application of Anthony Thomas English, et al.	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/734781 Filed: December 11, 2003	:	

For: **FLOATING WAVE MAKING MACHINE**

This is a decision on the petition filed on December 11, 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: 7/14/05

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OFFICE OF PETITIONS

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Patent No. 7,234,948	:	
Issue Date: June 26, 2007	:	
Application No. 10/734,789	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. 5020-1-003	:	

This is a decision on the petition filed August 6, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the address of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction with the address of "Gyeonggi-do."

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 [emphasis added]. *See also* MPEP 1481.01.

The requested address correction does not appear correct. The requested correction would appear to be for only part of the address yet it is presented in the certificate of correction and petition as the entire address which would be in error.

Telephone inquiries concerning this decision on petition should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Amr Salahieh	: DECISION ON REQUEST FOR
Patent Number	: 7651514	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/734,849	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1249** 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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Lieberman & Brandsdorfer, LLC
802 Still Creek Lane
Gaithersburg, MD 20878

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In re Application of	:	
James J. Rhodes	:	
Application No. 10/734,864	:	ON PETITION
Filed: December 12, 2003	:	
Attorney Docket No. RPS920030192US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 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 November 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is February 28, 2008. A Notice of Abandonment was mailed on June 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE, with the required fee of $810, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2168 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LENOVO (US) IP Law
1009 Think Place
Building One, 4th Floor 4B6
Morrisville, NC 27560

Mail Date: 04/21/2010

Applicant	: James J. Rhodes	: DECISION ON REQUEST FOR
Patent Number	: 7574458	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/734,864	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1004** 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

T.H.P. Richardson
1055 Trinity Drive
Menlo Park CA 94025

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OFFICE OF PETITIONS

In re Application of :
P. Reed, et al. :
Application No. 10/734,868 :
Filed: December 12, 2003 :
Attorney Docket No. RD001-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed September 5, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 24, 2006, 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 May 25, 2006. A Notice of Abandonment was mailed on August 30, 2006.

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

[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.

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 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]

---

[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.

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]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the non-final Office action mailed February 24, 2006, was not received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish nonreceipt of an Office communication must include a statement from the fractioned stating that the Office communication was not received by the practioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practioner's statement.

Petitioner did not make the showing required by MPEP 711.03(c) cited above. A renewed petition under 37 CFR 1.137(a) should provide the statements and docketing records as indicated above.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required

---

[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 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 concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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.

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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T.H.P. Richardson
1055 Trinity Drive
Menlo Park, CA 94025

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
P. Reed, et al. :
Application No. 10/734,868 :
Filed: December 12, 2003 :
Attorney Docket No. RD001-1 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a) filed December 9, 2006

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed February 24, 2006. The non-final Office action set shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period, and the application became abandoned on May 25, 2006. A Notice of Abandonment was mailed on August 30, 2006. A petition under 37 CFR 1.137(a) was first filed on September 5, 2006, and dismissed by a decision mailed December 4, 2006.

The file is now being directed to Technology Center 3600, GAU 3632 for further processing, including entry of the amendment filed September 5, 2006.

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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Kevin Shigeo Sakuda
3400 Stevenson Blvd. #M-34
Fremont, CA 94538

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Kevin S. Sakuda	:	
Application No. 10/734,891	:	ON PETITION
Filed: December 15, 2004	:	
Title of Invention:	:	
SPEARGUN OPEN MUZZLE	:	
BAND ELEVATORS	:	

This is a decision in response to the petition for revival of an application for patent abandoned unavoidably under 37 CFR 1.137(a), filed October 31, 2005. The delay in treating this petition is regretted.

The petition under 37 CFR 1.137(a) is dismissed.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), 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 "Request for Reconsideration of Petition under 37 CFR 1.137". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background:

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed February 24, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136.

Applicant filed a reply on June 16, 2005; however, Applicant did not include an extension of time request or fee. As such, the reply was not timely.

No timely and proper reply having been received, the application became abandoned on May 25, 2005.

The instant petition

Applicant files the instant petition and asserts that the delay was unavoidable because additional time was required to adequately address and respond to the Office Action.

A Grantable Petition Under 37 CFR 1.137(a)

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 met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant has provided a petition fee of $55.00. Applicant is advised that the fee for filing a petition to revive an application based upon an unavoidable delay was increased on December 8, 2004 to $250.00. As such, an additional $195.00 is required before the merits of the petition may be considered.

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

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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DEC 5 2005

NATH & ASSOCIATES
1030 15TH STREET, NW
6TH FLOOR
WASHINGTON, DC 20005

In re Application of:	:	
ANDREW J. CLEVELAND	:	DECISION ON PETITION
Serial No.: 10/734,910	:	TO MAKE SPECIAL
Filed: December 12, 2003	:	
Attorney Docket No.: 7273-70202-01	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed July 12, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a driver's license and a statement from the inventor, Andrew J. Cleveland, showing his date of birth. This is evidence that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

The application is being forwarded to he examiner for expedited prosecution. If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such. s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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CANTOR COLBURN
55 GIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Tomomi Oshiba et al	:	
Application No. 10/734,942	:	DECISION GRANTING PETITION
Filed: December 12, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. KOT-0008-C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of March 23, 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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AUG 29 2007

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
5 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of Tomomi Oshiba et al Application No. 10/734,942 Filed: December 12, 2003 Attorney Docket No. KOT-0008-C	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of December 6, 2006, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time submitted with the petition on June 7, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1756.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :
Larry D. Brown et al :
Application No. 10/734,953 : ON PETITION
Filed: December 12, 2003 :
Attorney Docket No. HENTE-088A :

This is a decision on the petition filed, November 13, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 7, 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 July 8, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on November 13, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 3632 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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APR 10 2008
OFFICE OF PETITIONS

In re Application of	:	
Hou-Pu Chou et al	:	
Application No. 10/734,963	:	DECISION GRANTING PETITION
Filed: December 11, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 020174-009630US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 9, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,981	12/12/2003	Doug Kaltenecker	10017696-1	1963

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
WORKU, NEGUSSIE

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
12/17/2003 EFLORES  00000030 082025   10734981
02 FC:1201        172.00 CR
03 FC:1202        198.00 CR
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FORM PET651G (Rev. 08/07)